UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/62/Add.1
7 June 1991

ENGLISH
Original: FRENCH

HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Initial reports of States parties due in 1990

Addendum

ALGERIA

[15 April 1991]

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GE.91-16190/4169B

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INTRODUCTION

1. The International Covenant on Civil and Political Rights was ratified by Presidential Decree No. 89-67 of 16 May 1989 after approval by the National People's Assembly (Act No. 89-08 of 25 April 1989 published in Journal Officiel No. 17 of 26 April 1989). In accordance with article 122 of the Constitution, treaties concerning the status of persons are ratified by the President of the Republic after express approval by the National People's Assembly. The Covenant entered into force for Algeria on 12 December 1989. Furthermore, Algeria has recognized the competence conferred on the Human Rights Committee by article 41 of the Covenant and the Optional Protocol thereto.

2. On submitting the initial report pursuant to article 40 of the Covenant, it is important by way of introduction to review the reforms in progress in Algeria; such a review will make it possible to grasp the scope of the changes which have taken place, and which are aimed at strengthening the democratic structures of the country, improving the operation of the national institutions and entrenching the State based on law. This State draws its strength from the affirmation of rules which lay the foundations for a multi-party system and for the separation of powers and which give a special place to citizens' participation in the conduct of public affairs and in safeguarding and promoting their rights and freedoms.

3. The reforms undertaken in Algeria in the course of the 1980s concern the country's economic, social and political life. In the economic field, a series of measures have been taken which share the objective of restoring the national productive apparatus to health so that it may master its methods of management and adjust to social, economic and technical changes. In the political field, striking changes have been ushered in by the advent of the multi-party system prescribed by the Constitution as adopted by popular referendum on 23 February 1989.

4. As stated in the preamble to the Constitution, in approving this fundamental text, "the work of their own genius, the reflection of their aspirations, the fruit of their determination and the product of profound social changes, the people intend to recognize more solemnly than ever before the primacy of law ... and to equip themselves with institutions which are based on citizens' participation in the conduct of public affairs and which translate into reality social justice, equality and freedom for each and every one ...".

5. Mr. Chadli Bendjedid, the President of the Algerian Republic, marked the anniversary of the adoption of the Constitution in these terms:

> "The anniversary of the adoption of the Constitution affords me the opportunity today to assess with you the distance covered and the tasks to be undertaken. The profound changes in society - the fruit of the economic and social progress achieved over more than two decades - have engendered in the citizen new aspirations and claims, just as they have led to imbalances and breakdowns in the functioning of society that have needed continuous attention. We were thus called upon individually and collectively to take resolute charge of the exercise of political and economic initiative dictated by this impetus for change. Borne up by the

trust and adherence of the majority in carrying the changes through, it has thus been given to me to organize the necessary consultations in order to enable the people to give practical expression to their will and their choices for their future. Today we are all entitled to feel that the rise of the fundamental freedoms embodied in the Constitution has become clearly apparent and that the new society is taking shape more and more with every day that passes. The citizens have occupied the available space in the associative field and are reducing it to order in virtue of their profound aspirations to freedom of association, of assembly and of expression, thus proving the extent and richness of the adversary discussion that devotes itself to the general progress by ensuring creative convergences."

6. The actions undertaken in order to entrench the State based on law and to consolidate the democratic institutions have been backed by various measures decided upon to translate the constitutional principles proclaimed into law and into practice and to strengthen the mechanisms for the application of democratic rules and the protection of human rights and public freedoms. These measures will be examined in relation to the comments on the articles of the Covenant. At this stage we may describe them in broad outline:

(a) The Constitution of 1989 specifies the primacy of law, political pluralism, freedom of association, the separation of the executive, legislative and judicial powers, and the principle of the independence of justice. The institutional controls have been strengthened, in particular through the establishment of the Constitutional Council responsible for monitoring compliance with the Constitution and checking the regularity of the operations of referendum, election of the President of the Republic and legislative elections. It also delivers opinions on the constitutionality of treaties, laws and regulations. The Constitutional Council was installed by the President of the Republic on 8 March 1989 and has delivered several decisions and opinions concerning the Electoral Code, the regulations for deputies and the rules of procedure of the National People's Assembly;

(b) The 1989 Constitution widens the scope of human rights and freedoms, which under the previous Constitution had been relegated to the restrictive area of law. The rights recognized by the 1976 Constitution have been reaffirmed and the procedures for their exercise strengthened and safeguarded by new constitutional provisions. "Henceforth their applicability derives directly from the Constitution and the system of supervision which guarantees the pluralism as well as the separation of powers";

(c) The procedures and jurisdictions for emergencies have been reviewed with, among other results, the abolition of the State Security Court and the referral of pending proceedings to the courts of normal jurisdiction (Act No. 89-06 of 25 April 1989);

(d) Revision of the Code of Penal Procedure so that any crime, of whatever nature, may be subject to the procedures and jurisdictions of ordinary law. Thus the economic section of the criminal court has been abolished (Act No. 90-24 of 18 August 1990 to amend and supplement Ordinance No. 66-155 of 8 June 1966 establishing the Code of Penal Procedure);

(e) Re-examination of the content of legislation in order to rid it of rules of law inherited from colonial times. In this context, the penalty of transportation was found inconsistent with our values and inhuman in character. It was consequently abolished by Act No. 89-05 of 25 April 1989, which amended article 9 and rescinded the provisions of articles 10 and 60 of Ordinance No. 66-156 of 8 June 1966 establishing the Penal Code;

(f) Amendment of the provisions of the Code of Civil Procedure concerning administrative disputes in order to streamline the appeal procedures and bring the system of justice closer to the people (Act No. 90-23 of 18 August 1990 to amend and supplement Ordinance No. 66-154 of 8 June 1966 establishing the Code of Civil Procedure);

(g) Revision of the provisions of the Code of Penal Procedure to afford better protection of the fundamental rights and freedoms of the citizen, in particular by strengthening the rights of the defence and the safeguards for the use of the procedures of police custody and pre-trial detention procedures (Act No. 90-24 of 18 August 1990 already mentioned);

(h) Revision of the judiciary regulations and promulgation of Act No. 89-21 of 12 December 1989 laying down new judiciary regulations to give full effect to the provisions of the 1989 Constitution establishing the multi-party system, the separation of powers and the independence of the judiciary, which protects society and freedoms and guarantees to each and every one the safeguarding of his fundamental rights (arts. 40, 129 and 130 of the Constitution). In this connection, the new judiciary regulations strengthen the new function of the judge. They spell out the rights and obligations that flow from it, ensure the judge's impartiality, and protect him against any form of pressure or interference that might impede the practice of his profession and the exercise of his free will. Thus the new regulations lay down the principle of irremovability of the judge, and his right to protection against all forms of pressure or interference and against threats, insults, abuse, defamation or attacks of any description whatsoever. The judge's right to organize is recognized; but, in order to guarantee his impartiality, he is forbidden to join any political association. Furthermore, if he considers himself injured in his rights, he may apply to the High Council of the Judiciary, the composition and operation of which have been revised in the light of the constitutional principles referred to above;

(i) The organization and operation of the Supreme Court have been revised in order to give the country's highest court the means of performing its function of ensuring respect for law in a State based on law and safeguarding the independence of the judiciary (Act No. 89-22 of 12 December 1989 concerning the organization and operation of the Supreme Court). In addition the Revue de la Cour suprême was founded by Executive Decree No. 90-141 of 19 May 1990 in order to make known the application of the law and to ensure unity in the decisions taken by the courts and tribunals;

(j) Promulgation of a series of Acts to organize the free exercise of the fundamental rights recognized by the Constitution (Act No. 90-07 of 3 April 1990 concerning information; Act No.90-14 of 2 June 1990 concerning the exercise of the right to organize; Act No. 89-11 of 5 July 1989 concerning political associations; recent revision (Act No. 90-31 of 4 December 1990) of

the Act concerning non-political associations, streamlining the procedures for their formation, in particular by eliminating the requirement for prior approval imposed by Act No. 87-15 of 21 July 1987);

(k) Amnesty for crimes and other offences against persons and property committed with open use of force during or on the occasion of unlawful or violent assemblies, for certain localities from 1 April 1980 to 11 July 1988 and throughout the national territory from 1 to 31 October 1988 (Act No. 90-19 of 15 August 1990 declaring an amnesty and Act No. 90-20 of 15 August 1990 concerning compensation consequent upon the aforementioned Amnesty Act).

7. The process of revising the laws and regulations is continuing in order to adapt them to the new aspirations of Algerian society. A draft text revising the regulations for lawyers is at present under consideration in the National People's Assembly, which is also examining various proposed amendments to the electoral law. In addition, several sectoral and intersectoral commissions are working to recast legal texts in order to provide the legislative support which gives primacy to law and which organizes, in any democracy, the framework for plural expression and exercise of the rights solemnly proclaimed by the Constitution.

8. At the beginning of December 1990 there were 33 approved political parties and six applications pending. There were 28,500 non-political associations, including two human rights leagues, an Algerian section of Amnesty International and a National Committee against Torture.

I. GENERAL INFORMATION

A. General legal framework

9. In this first report, the Algerian Government will endeavour to describe the general legal framework that provides protection for civil and political rights in Algeria. The Constitution of 1989 states in its preamble that it "is above everybody, it is the fundamental law that guarantees individual and collective rights and freedoms, protects the rule of the people's free choice and confers legitimacy upon the exercise of the powers. It provides the means of ensuring the legal protection and supervision of the actions of the public authorities in a society in which legality and the full development of man in all its dimensions prevail".

10. It devotes an entire chapter to rights and freedoms. Here follows a brief summary of the provisions of the main articles in this chapter.

Art. 28. Citizens are equal before the law, and there shall be no discrimination on grounds of birth, race, sex, opinion or any other personal or social condition or circumstance.

Art. 30. The institutions shall seek to ensure the equality of rights and duties of all male and female citizens by eliminating the obstacles which impede the full development of the human personality and prevent the effective participation of all in political, economic, social and cultural life.

Art. 31. The fundamental freedoms and rights of man and the citizen are guaranteed. They constitute the common heritage of all Algerian men and women, which they have the duty to hand on from generation to generation in order to preserve it in its integrity and inviolability.

Art. 32. The individual or associative defence of the fundamental rights of man and of individual and collective freedoms is guaranteed.

Art. 33. The State guarantees the inviolability of the human person. Any form of physical or moral violence is prohibited.

Art. 34. Offences committed against rights and freedoms and physical or moral attacks on the integrity of the human being shall be punishable by law.

Art. 35. Freedom of conscience and freedom of opinion are inviolable.

Art. 36. The freedom of intellectual, artistic and scientific creation is guaranteed to the citizen. Copyright shall be protected by law. No publication, recording or other medium of communication or information shall be sequestrated save by order of the court.

Art. 37. The privacy and honour of the citizen is inviolable and shall be protected by law. The secrecy of private correspondence and communication in all their forms is guaranteed.

Art. 38. The State shall guarantee inviolability of the home. No search may take place save in virtue of the law and in accordance therewith. No search may be made save by written order of the competent judicial authority.

Art. 39. The freedoms of expression, association and assembly are guaranteed to the citizen.

Art. 40. The right to establish political associations is recognized. This right may not, however, be claimed for the purpose of encroaching upon fundamental freedoms, national unity, the territorial integrity or independence of the country, or the sovereignty of the people.

Art. 41. Any citizen in possession of his civil and political rights shall be entitled to choose his place of residence freely and to travel within the national territory. He is guaranteed the right to enter and leave the national territory.

Art. 42. Every person shall be presumed innocent until proved guilty by a regular court with all the safeguards required by the law.

Art. 43. No one may be found guilty except by virtue of a law duly promulgated prior to the act of which he is accused.

Art. 44. No one may be prosecuted, arrested or detained except in the cases determined by law and in accordance with the procedures prescribed thereby.

Art. 45. For the purposes of criminal investigation, police custody shall be subject to judicial supervision and may not exceed 48 hours. A person in police custody shall have the right to get into touch with his family immediately. Police custody may not be prolonged as an exceptional measure save under the conditions fixed by law. Upon the expiry of the time-limit for police custody, it shall be mandatory to carry out a medical examination of the person detained if he so requests, and he shall in all cases be informed of this option.

Art. 46. Judicial errors shall be made good by the State. The conditions and procedures for compensation shall be determined by law.

Art. 47. Every citizen who satisfies the legal conditions is entitled to vote and to stand for election.

Art. 48. Equal access to office and employment under the State is guaranteed to all citizens, subject to no conditions other than those fixed by law.

Art. 49. The ownership of private property is guaranteed. The right of inheritance is guaranteed. Wakf assets (religious assets) and foundations are recognized; the disposal thereof shall be protected by law.

Art. 50. The right to education is guaranteed; education shall be free of charge under the conditions fixed by law. Basic education is compulsory. The State shall organize the system of education. The State shall ensure equal access to education and to vocational training.

Art. 51. All citizens are entitled to protection of their health. The State shall provide for the prevention and control of epidemic and endemic diseases.

Art. 52. All citizens have the right to work. The right to protection and to safe and healthy working conditions shall be guaranteed by law. The right to rest is guaranteed; the law shall determine the procedures for the exercise thereof.

Art. 53. The right to organize is recognized for all citizens.

Art. 54. The right to strike is recognized and shall be exercised within the law. The law may prohibit or restrict the exercise of this right in the areas of national defence or security or for all public services or activities of vital interest to the community.

Art. 55. The family shall enjoy the protection of the State and society.

Art. 56. The living standards of citizens who are not yet able to work, can no longer work or will never be able to work shall be guaranteed.

11. The proclamation of these rights by the Constitution, which permits legal restrictions on their implementation only in rare and exceptional cases, means that their applicability derives directly from the country's fundamental law, thus strengthening the guarantees for their protection. As the constitutional provisions are at the top of the hierarchy of juridical norms, any legislative or regulatory text contrary to them would be declared unconstitutional.

12. In addition, it should be noted that the constitutional principles include: (a) the guarantee of the inviolability of the human person; (b) the prohibition of any form of violence, either physical or moral; (c) the punishment by law of offences committed against rights and freedoms and of physical or moral violations of the integrity of the human being; and (d) the guarantees which must be provided with regard to custody (judicial supervision; maximum duration of 48 hours; the right of the person held in custody to contact his family immediately; obligatory medical examination of the person held if he requests such an examination and the requirement that he must in all cases be informed of that option).

13. The Constitutional Council has the task of ensuring observance of the Constitution and takes decisions on the constitutionality of treaties, laws and regulations (arts. 153 and 155 of the Constitution). When it finds that a legislative or regulatory provision is unconstitutional, the latter ceases to have any effect from the date of the Council's decision (art. 159 of the Constitution). The effectiveness of the guarantees of the rights recognized by the Constitution is further strengthened by the system of pluralism, separation of powers and freedom of association established by the Constitution.

14. Violations of the human rights and freedoms set forth in the Constitution are sanctioned and severely punished under national legislation. The Penal Code, for example, devotes a chapter to crimes and offences against the Constitution, with one section for infringements of liberty and specific provisions concerning civil servants and officials who incur civil as well as State responsibility when they order or commit arbitrary acts or infringements either against personal liberties or the civil rights of citizens. Furthermore, torture or any other violation of the physical integrity of the individual is punishable under many provisions of the Penal Code.

15. Various basic legal texts and sectoral laws protect the rights of the individual, in particular the Code of Penal Procedure (rights to defence and supervision of penal procedures), the Civil Code (protection of persons who are legally incapable and under the age of majority; prohibition of any renunciation of a person's individual freedom; nullity of contracts where violence is employed, etc.); the code governing the penitentiary system and rehabilitation; the ordinance relating to the protection of children and young persons; the law relating to information (publications must not include illustrations, stories, information or other materials contrary to human rights; protection against defamation, etc.); the law relating to the protection and promotion of health (in particular, provisions concerning the removal of tissues or organs; experiments on human beings; the duty of physicians to report any maltreatment of children or of persons deprived of their liberty which has come to their attention in the exercise of their profession; the establishment of a national council on medical ethics, etc.).

B. Conventions to which Algeria is a party and status of Algeria's international commitments

16. Algeria is a party to a large number of international instruments which set forth a series of rights contributing to respect for the dignity and integrity of the human person. These instruments include:

African Charter on Human and Peoples' Rights of 1981;

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 2 December 1949;

Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948;

Convention relating to the Status of Refugees of 28 July 1951;

Convention relating to the Status of Stateless Persons of 28 September 1954;

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 7 September 1954;

International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965;

International Covenant on Economic, Social and Cultural Rights of 16 December 1966;

International Covenant on Civil and Political Rights of 16 December 1966;

Optional Protocol to the International Covenant on Civil and Political Rights of 16 December 1966;

Protocol relating to the Status of Refugees of 16 December 1966;

International Convention on the Suppression and Punishment of the Crime of Apartheid of 30 November 1973;

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984;

International Convention against Apartheid in Sports of 10 December 1985;

Geneva Conventions of 1949 and the Additional Protocols of 1977.

17. Under article 122 of the Constitution, treaties relating to the status of persons are ratified by the President of the Republic after their express approval by the National People's Assembly. Article 123 adds that "treaties ratified by the President of the Republic, under the conditions provided for by the Constitution, take precedence over the law". The International Covenant on Civil and Political Rights, as a treaty concerning the status of persons, was submitted for approval by the National People's Assembly and then ratified

by the President of the Republic. There is no special procedure for the integration of an international convention into the Algerian legal system. Such a convention forms an integral part of national legislation once it has been duly approved and ratified. Furthermore, by virtue of the Constitution, it acquires a higher legal status than domestic laws. Consequently, treaties which have been duly ratified rank second in the hierarchy of juridical norms, after the Constitution and before domestic laws. No contrary law may be implemented as the provisions of the convention take precedence. The provisions of a convention which has been duly ratified may be invoked directly in the courts.

18. The Constitutional Council, in its decision No. 1 DLCC/89 of 20 August 1989 on the Electoral Code, clearly reaffirmed the constitutional principle of the primacy of duly ratified treaties over domestic laws and concluded that any Algerian citizen was permitted to avail himself of the provisions of such treaties in the courts:

> "Considering that, after its ratification and following its publication, any convention forms an integral part of national law and, pursuant to article 123 of the Constitution, acquires a higher status than domestic laws, permitting any Algerian citizen to avail himself of its provisions in the courts; this is the case in particular for the United Nations Covenants of 1966, approved by Act No. 89-08 of 25 April 1989, to which Algeria acceded by Presidential Decree No. 89-67 of 16 May 1989, and for the African Charter on Human and Peoples' Rights, ratified by Decree No. 87-37 of 3 February 1987, these legal instruments solemnly prohibiting discrimination of any kind".

C. Judicial, administrative or other authorities competent to deal with matters covered by the Convention

1. The Constitutional Council

19. Matters may be brought before the Constitutional Council either by the President of the Republic or by the President of the National People's Assembly (art. 156 of the Constitution). The Council is composed of seven members, two of whom are appointed by the President of the Republic, two are elected by the National People's Assembly and two by the Supreme Court. The Constitutional Council may be called upon to declare unconstitutional any legislative or regulatory provision which is contrary to the Constitution. As we have seen, the Constitution prohibits all forms of physical or moral violence, guarantees the inviolability of the human person and devotes an entire chapter to human rights. The Constitutional Council therefore has a particularly broad field of action to monitor laws and regulations concerning human rights. Indeed, when it finds that a legislative or regulatory provision is unconstitutional, that provision ceases to have any effect from the date of the Council's decision.

20. The Constitutional Council is, furthermore, empowered to monitor certain procedures which may affect the operation of national institutions and citizens' rights. Articles 84 to 87 and 91 require the Constitutional Council to be involved and consulted whenever a state of emergency or siege or martial law is declared or whenever armistice agreements or peace treaties are signed.

In the case of a constitutional amendment, the President of the Republic cannot directly promulgate the act amending the Constitution (without submitting it to a popular referendum) unless it has obtained three quarters of the votes of the members of the National People's Assembly and, in the reasoned opinion of the Constitutional Council, the draft amendment in no way violates the general principles governing Algerian society or human and citizens' rights or freedoms and in no way affects the fundamental balance of powers and institutions (art. 164 of the Constitution).

21. Since its establishment on 8 March 1989, the Constitutional Council has rendered various decisions and opinions at the request of the President of the Republic, including:

Decision No. 1 DLCC/89 of 20 August 1989 on the Electoral Code;

Decision No. 2 DLCC/89 of 30 August 1989 on the status of deputies;

Opinion No. 1 LCC/89 of 28 August 1989 on the rules of procedure of the National People's Assembly;

Decision No. 3 DRICC/89 of 18 December 1989 on the rules of procedure of the National People's Assembly;

Opinion No. 2 ALCC/89 of 9 December 1989 on the act postponing elections for the renewal of the communal people's assemblies;

Opinion No. 3 ALCC/89 of 9 December 1989 on the law postponing elections for the renewal of the wilaya people's assemblies.

2. Respect for the law

22. The judicial, administrative and other authorities are required to observe the law and Algeria's international commitments. The Constitution devotes several articles to duties, including article 57, which stipulates that no one should be ignorant of the law. Article 60 provides that all the individual's freedoms should be exercised with due regard for the rights granted to others by the Constitution, in particular the right to honour, privacy and protection of the family, young persons and children.

23. The Algerian judicial system plays a leading role in taking decisions aimed at the prevention and suppression of torture. The organization and underlying principles of the system strengthen its power of action.

3. Independence of the judiciary

24. The Constitution devotes several articles to the principle of the independence of the judiciary. Their provisions are summarized below.

Art. 129. The judiciary is independent.

Art. 130. The judiciary shall protect society and freedoms. It shall guarantee that every person's fundamental rights are safeguarded.

Art. 132. Justice shall be administered on behalf of the people.

Art. 136. All the qualified State bodies shall be required to ensure the execution of judicial decisions at any time, in any place and under any circumstances.

Art. 137. Justice shall be administered by judges. They may be assisted by people's assessors under the conditions established by the law.

Art. 138. Judges shall obey only the law.

Art. 139. Judges shall be protected against any form of pressure, interference or manipulation which could be detrimental to the performance of their duties or to their freedom of judgement.

25. The President of the Republic, in a speech in February 1990 to the National Conference of Judges, underlined the responsibility of the judiciary in the following terms:

> "Is it necessary to remind the representatives of the judiciary that you are, more than ever, the body within society which summons justice for the protection of its institutions and its freedoms? Justice today is vested with the power of overall regulation of society through the settlement of disputes to which different interests may give rise in the political, economic and social fields. There can be no doubt that the relationship between the Administration and the citizen, the free play of political and electoral competition, and the exercise of rights and freedoms which have no limit except where they impinge upon the rights and freedoms of others call for arbitration that is free from group or individual pressures and is now rendered possible by your independence.
>
> "In the field of employment, where human relations are established by means of negotiated agreements and partnership based on the free choice of the representatives, it is now the task of justice to ensure respect for the law and the resolution of individual or collective conflicts in the interests of social peace by protecting the rights of everyone.
>
> "Likewise, the organization of the economy, formed on the principles of commercialism and civil law applicable to enterprises, both public and private, calls on your exclusive competence in dealing with economic and commercial conflicts and disputes.
>
> "In other words, this enlargement of the scope of your actions and the total independence of your decisions also confer on you prime responsibility in the promotion and successful application of the new rules governing society".

26. The judicial system in Algeria is based on the principles of the separation of powers. Judicial power is independent and judges obey only the law, which is administered on behalf of the people. Act No. 89-21 of 12 December 1989 on the status of the magistrature reflects the principles set forth in the Constitution. Various articles of this Act concern the independence of judges:

Art. 7. Judges are in all circumstances required to exercise reserve guaranteeing their independence and impartiality.

Art. 8. Except where expressly stated otherwise by the law, judges are required to observe the secrecy of deliberations and shall refrain from communicating any information or details regarding court cases.

Art. 9. The duties of a judge are incompatible with the holding of any elective office at the national or local level. Judges shall be prohibited from belonging to any political association. They shall declare any affiliation to other associations or groups to the Minister of Justice so that he may, where appropriate, take the necessary measures to preserve the independence and dignity of the judiciary.

Art. 10. Judges shall be prohibited from taking any action which might halt or impede the administration of justice.

27. The Act relating to the status of the magistrature also defines the rights of judges, particularly in the following articles:

Art. 16. A judge with 10 years' effective service is irremovable and may not, without his consent, be transferred or reassigned to the procurator's office or central administration or to the administrative services of the Supreme Court.

Art. 18. Judges shall be protected against any form of pressure or interference which could be detrimental to the performance of their duties or to their freedom of judgement under article 139 of the Constitution.

Art. 19. Apart from the protection enjoyed under the provisions of the Penal Code and special laws, the State shall be required to protect judges against threats, insults, slander, libel or attacks of any kind in the performance of their duties.

Art. 21. Judges shall be granted trade union rights, subject to the provisions of articles 9 and 10 of this Act.

28. The same Act determines the composition, operation and powers of the High Council of the Judiciary entrusted with ensuring respect for the rights of judges and the proper development of their careers.

4. Equality of justice; legality of offences and individuality of penalties; presumption of innocence; non-retroactivity of the law

29. Several articles of the Constitution deal with these questions:

Art. 131. Justice is based on the principles of legality and equality. It is equal for all, accessible to all and is manifested in respect for the law.

Art. 133. Criminal penalties shall be consistent with the principles of legality and individuality.

Art. 42. Every person shall be presumed innocent until proved guilty by a regular court with all the safeguards required by the law.

Art. 43. No one may be found guilty except by virtue of a law duly promulgated prior to the act of which he is accused.

Art. 44. No one may be prosecuted, arrested or detained except in the cases determined by law and in accordance with the procedures prescribed thereby.

30. The Penal Code also lays down various rules in this regard:

Art. 1. There is no offence, penalty or security measure outside the law.

Art. 2. The criminal law shall not be not retroactive, except where it is less rigorous.

Art. 3. The criminal law shall apply to all offences committed in the territory of the Republic. It shall apply also to offences committed abroad when the Algerian criminal courts have jurisdiction under the provisions of the Code of Penal Procedure.

31. The principle of non-retroactivity of the law even extends to civil cases. Article 2 of the Civil Code states that "The law provides only for the future. It has no retroactive effect".

5. The right to defence

32. Article 142 of the Constitution recognizes the right to defence, which is a safeguard in criminal matters. Any person tried in a court has the right to defend himself and to be assisted by counsel of his own choosing. Needy persons may be provided with legal assistance. In certain cases, the presence of a defence counsel to assist the accused or defendant has even been made obligatory by the legislature. The same applies to appearance in a criminal court which has full jurisdiction to try persons who have reached the age of majority and who are brought before it by a decision of the indictment division. Under article 271 of the Code of Penal Procedure, the accused shall be invited by the presiding judge to choose counsel to assist him in his defence. If the accused does not make a choice, counsel shall be appointed for him automatically. Article 292 adds, with regard to the appearance of the accused, that the presence of a defence counsel to assist him at the hearing is obligatory. Where necessary, counsel shall be appointed for him by the presiding judge. Even in the case of flagrant offences, the individual brought before the court under this procedure must be informed by the presiding judge that he has the right to request a stay of proceedings in order to prepare his defence; the notification given by the presiding judge and the defendant's reply are recorded in the judgement (art. 338 of the Code of Penal Procedure).

33. The rights of defence have been strengthened by Act No. 90-24 of 18 August 1990, which modifies and supplements the Code of Penal Procedure. This Code has in fact been revised on the basis of an examination made by a working group comprising judges, lawyers, and representatives of

the two Algerian human rights leagues and the Algerian section of Amnesty International. A critical study of the Code of Penal Procedure was made, and permitted the reformulation of some of its provisions with a view to strengthening defence rights. Two paragraphs of article 51 of the Code were expanded to underline the exceptional nature of custody and the safeguards relating to it. The paragraph regarding compulsory medical examination following custody previously read: "On expiry of the time-limit for custody, a medical examination shall be made of the person detained if he requests such an examination. He shall be informed of this option". The text was amended as follows: "On expiry of the time-limit for custody, a medical examination shall be made of the person detained if he requests such an examination directly or through his counsel or his family. The examination shall be carried out by a physician of his own choosing. He shall be informed of this option".

34. With regard to searches, domiciliary visits and seizure of items of evidence, article 64 of the Code, which requires the express consent of the person in whose home the operation takes place, has been amended to take account of the problem of individuals unable to read. The new wording of this article allows a person unable to read to obtain the assistance of a third party of his choosing in order to make a written declaration of consent or refusal.

35. Defence rights have been broadened and the difficulties of access to case files have been removed. Even at the inquiry stage, counsel has the right to obtain a copy of the file. To this end, an article has been added to the Code of Penal Procedure (art. 68 bis). Furthermore, the defence is entitled to submit comments to the indictment division, enabling it to elucidate the actual circumstances and points of law relevant to the case, and it is now possible for the parties to attend these hearings. Lastly, the defence has been granted a right of reply to the government procurator's statement. Article 353 (3), specifying that "The defendant always has the final word", has been amended as follows: "The defendant and his counsel shall always have the final word". The same holds for article 304.

D. Remedies

36. The remedies available to anyone who alleges that his rights as set forth in the Covenant have been violated are the same as those of ordinary law. The criminal proceedings authorized by positive criminal law as applicable in Algeria should therefore be taken into account. In addition to the express provisions of the penal Code, which establishes penalties for various acts constituting infringements of human rights and freedoms as well as the integrity of the human being, it is important to recall that the provisions of the Covenant form an integral part of this law and can be directly invoked in the courts (see decision of the Constitutional Council above). Public prosecution proceedings for the determination of penalties may be initiated and carried out by the judges who are given this authority under the law. These proceedings may also be initiated by the injured party, who also has the right to initiate a criminal action for damages. This action may be brought concurrently with or separately from the prosecution proceedings. The court also hears appeals against acts by the public authorities, a principle established in articles 134 of the Constitution. Finally, appeals or applications for judicial review may be lodged against court decisions.

1. Public prosecution proceedings

37. The Code of Penal Procedure contains a number of provisions which determine the proceudres for the initiation of public prosecution proceedings:

Art. 1. Public prosecution proceedings for the enforcement of penalties shall be initiated and carried out by the judges or the public officials to whom the law has granted this authority. They may also be initiated by the injured party, under the conditions specified in the present Code.

Art. 29. The Government procurator shall carry out the proceedings on behalf of society and demand enforcement of the law. He shall be represented in every court of law.

Art. 30. The Minister of Justice may report infringements of the criminal law to the procurator-general. He may also instruct him in writing to initiate criminal proceedings or have them initiated or to make such written submissions to the competent court as he deems appropriate.

Art. 32. Any constituted authority, public official or civil servant who, in the performance of his duties, learns of a serious or ordinary offence shall be required to inform the government attorney procurator without delay and to transmit to him all the information, official reports and records relating thereto.

Art. 36. The government procurator shall receive the reports, complaints and denunciations and decide on the action to be taken thereon. He shall take all necessary measures, or cause them to be taken, for inquiry into or proceedings against infringements of the criminal law.

2. Initiation of criminal indemnity proceedings

38. Public prosecution proceedings may be initiated by the injured party, who may also initiate criminal indemnity proceedings. The Code of Civil Procedure contains the following provisions:

Art. 2. Criminal indemnity proceedings to obtain compensation for the damage caused by a serious, ordinary or minor offence may be initiated by anyone who has personally suffered the damage directly caused by the infringement. Except for the cases specified in article 6, paragraph 3, renunciation of criminal indemnity proceedings cannot halt or suspend the execution of public prosecution proceedings.

Art. 3. Criminal indemnity proceedings may be udnertaken at the same time as prosecution proceedings and in the same court. This court shall be competent to hear the case, irrespective of the natural or legal person, under civil law, responsible for the injury.

Art. 4. Criminal indemnity proceedings may also be undertaken separately from prosecution proceedings. Nevertheless, there shall be a stay of judgement in the proceedings in the civil court until a final decision has been delivered in the prosecution proceedings, where the latter have been initiated.

Art. 72. Anyone who claims that he has suffered injury as a result of an infringement may, by lodging a complaint, initiate criminal indemnity proceedings before the competent examining magistrate.

3. Remedies against actions by the public authorities

39. Act No. 90-23 of 18 August 1990 amended and added to the Code of Civil Procedure with the aim of bringing justice closer to the citizen and to simplify the procedures to be followed in appealing against acts by the public authorities and in administrative disputes. The procedures in force under the former law were in fact characterized by the centralization of annulment proceedings in the supreme court and by slowness due to the requirement that preliminary, discretionary or hierarchical appeals had to be lodged before any appeal could be made to a court. Under the new Act, appeals against acts by local authorities come under the jurisdiction of the courts of first instance and appeals may be made to the Supreme Court. The courts hear all cases of any kind to which the State, the wilaya or administrative institution is a party, in accordance with the following rules of competence.

40. The courts of Algiers, Oran, Constantine, Béchar and Ouargla are competent to hear annulment proceedings against decisions taken by wilayas, proceedings for the interpretation of a judgement and proceedings for the review of legality of the acts of these authorities.

41. Twenty-two courts which have an administrative division are competent to hear annulment proceedings against decisions taken by the presidents of the communal people's assemblies and by public institutions of an administrative nature, appeals for the interpretation of judgements and appeals for review of the legality of the acts of those authorities, as well as proceedings involving the civil liability of the State, the wilaya, the commune or a public administrative institution seeking compensation for damage.

42. The Supreme Court hears annulment proceedings against decisions taken by the central administrative authorities abuses of constituting authority, annulment proceedings against statutory or individual decisions taken by the central administrative authorities, and appeals for the interpretation of judgements or for review of the legality of acts involving any dispute which the Supreme Court is competent to decide.

43. Preliminary appeals (discretionary and hierarchical remedies) have been abolished and replaced by the requirement that the judge should try to reconcile the parties on the occasions of appeals to the courts. Such appeals are maintained only for disputes referred to the Supreme Court.

E. Other measures taken to ensure the application of the provisions of the Covenant

44. As is apparent from the introduction and the information provided in part I of this report, Algeria has ratified the Covenant and accepted all the supervisory mechanisms established therein, and has systematically revised the existing laws in order to give full effect to the constitutional principles which have been solemnly established. The process of reform is going ahead, with the active participation of all the sectors which constitute civilian

society, organized into political groupings or non-political associations which enjoy complete freedom of expression and assembly. Human rights are openly discussed in Algeria and are included in most programmes of the political parties. Throughout the past year, some of these parties have held seminars on subjects such as the rights of the child, torture, Islam and human rights, etc. Several Algerian associations are actively working in complete freedom to safeguard human rights.

II. INFORMATION CONCERNING THE ARTICLES OF THE COVENANT

Article 1: The right of peoples to self-determination and to dispose of their natural wealth and resources

45. Algeria reiterates its unwavering support for the right of peoples to self-determination, their right to dispose of their natural wealth and resources and their right to choose freely their political system and their pattern of economic, social and cultural development. In no circumstances should a people be deprived of its own means of subsistence or of its inalienable right to self-determination and to dispose of its natural wealth and resources. Algeria endorses the provisions of article 47 of the Covenant, which reads: "Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources". Algeria considers furthermore that the maintenance of certain territories in the state of dependence referred to in article 1, paragraph 3, of the Covenant is contrary to the purposes and principles of the United Nations Charter and the Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly resolution 1514 (XV) of 14 December 1960).

46. Algeria's attachment to the ideals and principles of the United Nations derives from its deep-seated values and the tradition of solidarity and justice of the Algerian people who, throughout their long history, have unfailingly given evidence of their openness to other cultures and civilizations and their abhorrence and rejection of all forms of domination. The tribulations endured during the colonial period and during the national liberation war strengthened the already established conviction of the Algerian people that they should lend their full support to peoples struggling for their emancipation and to recover their fundamental rights, among which the right of self-determination is fundamental.

47. Algeria's solidarity with the peoples fighting against colonialism, apartheid, zionism and any other forms of occupation, domination or racial discrimination was asserted well before independence and even while the Algerian people were waging their own struggle for national liberation. For example, reference may be made to the declaration of 24 March 1960 issued by the Ministry of Foreign Affairs of the Provisional Government of the Republic of Algeria after the Sharpeville massacres: "The recent massacres of the unarmed population of Sharpeville have caused deep distress among the fighting people of Algeria. On behalf of the Algerian Government, we wish to reassert our indignation at this barbaric act which is a denial of the humanitarian principles of human rights. However, this abominable repression which is being imposed on the South African people bloodily confirms that the colonialism which is being inflicted on South Africa is that of one kind only

and that the complete liberation of Africa is a single and indivisible cause. The ideal of freedom, independence and unity which inspires the people of Africa is one and the same. Only effective and positive action by the peoples and Governments of Africa, supported by all freedom-loving nations can put an end to barbarity and remove the yoke of colonialism".

48. Algeria is working steadily and unceasingly to eliminate colonialism and its vestiges and all forms of racial discrimination and exploitation of a country's wealth and resources, to bring about the total dismantling of apartheid, and to restore the inalienable rights of the peoples who are victims of these practices. Algeria's support for the legitimate struggle of peoples is voiced at all levels - bilateral, multilateral, regional or universal. Algeria has made the cause of the Palestinian people and the completion of the liberation of the African continent one of the main objectives of its foreign policy and, in accordance with the Charter of the OAU and the African Charter on Human Rights and Peoples' Rights, has pledged to continue working actively for the total eradication of apartheid. Algeria's front-line struggle against colonialism and its after-effects, racism, apartheid and all the other ways in which the right of self-determination is denied continues in the form of aid to the peoples who are fighting, to their legitimate representatives and to their national liberation movements. The adoption in Algiers in 1976 of the International Charter for the Right of Peoples (the Algiers Charter) has stamped the name of Algeria's capital on the principle of the right of peoples to self-determination and their right to dispose of their national wealth and resources.

49. In the area of domestic legislation, one of the first acts of independent Algeria was to make all the laws predating independence temporarily subject to the following mandatory conditions: "All laws and provisions which impair the internal and external sovereignty of the Algerian State, are inspired by colonialism or are discriminatory, and all laws and provisions which impair the normal exercise of democratic freedoms are hereby declared null and void" (art. 2 of Act No. 62-57 of 31 December 1962).

50. Since then, several enactments have been added to Algerian law. Thus, Ordinance No. 73-21 of 5 July 1973 repealed, with effect from 5 July 1975, all non-Algerian laws which had had to be temporarily extended at independence. The laws currently in force are based upon the fundamental principle of the right of peoples to self-determination and to dispose of their natural wealth and resources.

51. Only recently, this principle was reaffirmed by the 1989 Constitution which underlines, in its Preamble, that "the history of the Algerian people is a long series of battles which have made Algeria forever a country of freedom and dignity", and that:

> "its faith in the collective choices has enabled the Algerian people to achieve decisive victories, marked by the recovery of national wealth and the construction of a State designed exclusively to serve the people, exercising its powers in full independence and free from any external pressure. Having always fought for freedom and democracy, the people intend, through this Constitution, to establish institutions that are based on the participation of citizens in the conduct of public affairs

> and make social justice, equality and the liberty of each and every one a reality ... . Strong in its deeply-rooted spiritual values and its traditions of solidarity and justice, the people are confident of their ability to work fully for the cultural, social and economic progress of the world now and in the future".

The Constitution further states Algeria "is honoured by the influence of its revolution of 1 November and the respect which the country has gained and preserved because of its commitment to all the just causes of the world".

52. Article 6 of the Constitution states that the people are the source of all power and that national sovereignty belongs to the people; article 8 proclaims that the people shall establish institutions whose objective is to safeguard and consolidate national independence, protect the fundamental freedoms of the citizen, and promote the social and cultural development of the Nation and the national economy. Article 9 states that the institutions forbid, inter alia, "the establishment of relations of exploitation and bonds of dependency". Article 24 provides that "The National People's Army has a permanent mission to safeguard national independence and to defend national sovereignty". Article 25 states that "Algeria pledges to refrain from resorting to war to violate the legitimate sovereignty or liberty of other peoples", and that "it will endeavour to settle international disputes by peaceful means". Article 26 stipulates that "Algeria declares its solidarity with all peoples fighting for political and economic liberation, for the right of self-determination and against all racial discrimination". Article 27 declares that "Algeria will work to reinforce international cooperation and to develop friendly relations between States on the basis of equality, mutual interest and non-interference in internal affairs. It subscribes to the principles and objectives of the Charter of the United Nations".

Article 2, paragraph 1: Guarantee of the rights recognized in the Covenant

53. Under article 2, paragraph 1, each State party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant without discrimination of any kind. As stated earlier, one of the first measures taken by Algeria on attaining independence was to eliminate from national legislation all laws or regulations inherited from its colonial past which were considered racist and discriminatory. The country subsequently passed a new set of laws which cover all areas of political, economic, social and cultural life and are in full compliance with the fundamental principle of non-discrimination and respect for human rights. Respect and guarantees for human rights are written into the Algerian Constitution, an entire chapter of which is devoted to these rights. Article 28 stipulates that "Citizens are equal before the law, and there shall be no discrimination on grounds of birth, race, sex, opinion or any other personal or social condition or circumstance". Article 64 provides that "Any alien lawfully present in the national territory shall enjoy the protection of the law for the purposes of his person and his property".

Article 2, paragraph 2: Obligation to incorporate and implement the provisions of the Covenant in domestic legislation

54. Apart from the fact that most of the rights set forth in the Covenant have already been embodied in the Constitution and are incorporated in the national legislation in force, it should be recalled that, under the terms of the Constitution itself, international conventions ratified by Algeria take precedence over the law. The Constitutional Council, by its decision No. 1 of 20 August 1989, deemed that "after ratification and upon publication, every convention shall be incorporated into national law and, pursuant to article 123 of the Constitution, shall acquire a higher authority than that of the laws, and that any Algerian citizen may cite them in the courts. One such example is the case of the United Nations Covenants of 1966, which were adopted by Act No. 89-08 of 25 April 1989 and to which Algeria acceded by Presidential Decree No. 89-67 of 16 May 1989".

Article 2, paragraph 3: Remedies

55. The reader's attention is drawn to the first part of this report entitled "General information", where we dealt with the independence of the judiciary (paras. 24-28) and remedies, in particular public prosecution proceedings, criminal indemnity proceedings, discretionary proceedings and appeals against actions by the public authorities (paras. 36-43).

56. Public prosecution proceedings may be initiated by the government procurator or by the party injured by an infringement who, by lodging a complaint, can initiate proceedings before the competent examining magistrate. Furthermore, when an infringement has been reported to them, the officers of the criminal investigation department, on the instructions of the government procurator or ex officio, undertake preliminary inquiries.

57. Anyone who claims to have had his rights violated is entitled to lodge a complaint with the competent courts. The authorities responsible for receiving the complaints are the government procurator and his assistants. The officers of the criminal investigation department are required to inform the government procurator immediately of any offences reported to them. The victims are entitled to lodge a complaint either directly with the government procurator and his assistants or by initiating prosecution proceedings in the competent courts. They are also entitled, by lodging a complaint, to initiate proceedings before the competent examining magistrate. If a plaintiff or his witnesses are in danger, the government procurator and his assistants are required to provide protection for them.

58. Anyone whose rights have been violated may not only institute prosecution proceedings, but may also bring charges. "Criminal indemnity action, in compensation for the damage caused by a serious, ordinary or minor offence, is the right of all those who have personally suffered damage as a result of the infringement" (art. 2 of the Code of Penal Procedure). The criminal indemnity proceedings may be brought at the same time as the prosecution proceedings and before the same court. This court shall be competent, regardless of the natural or legal person under civil law responsible for the damage. Criminal indemnity proceedings are admissible for all types of damages, whether material, corporal or moral, which derive from the act in respect of which

prosecution proceedings have been initiated (art. 3 of the Code of Penal Procedure). The criminal indemnity proceedings may also be brought separately from the prosecution proceedings. The Civil Code provides that anyone who suffers an illegal infringement of rights as a person may demand the cessation of, and compensation for, the damage resulting therefrom (art. 7). A remedy shall be available to the victim even if the violation of a right or freedom was allegedly committed by persons acting in the performance of their official duties.

59. There are thus many legal provisions that prohibit a series of acts of commission or omission or negligence by civil servants or any other public officials which may violate the rights of the individual. A number of non-exhaustive examples taken from the Penal Code may be mentioned:

(a) An entire section is devoted to infringements of freedom. Article 107, for example, stipulates: "When an official has ordered or committed an arbitrary act or an act which infringes either the personal freedom or the civil rights of one or more citizens, he shall be liable to a penalty of long-term rigorous imprisonment for five to ten years". Article 108 reads: "The offences provided for in article 107 render their perpetrator, as well as the State, personally liable, unless action is taken by the latter against the aforesaid perpetrator". Articles 107 to 111 establish penalties for:

(i) Refusal to comply with an application intended to confirm illegal and arbitrary detention (5 to 10 years' imprisonment);

(ii) Reception of a prisoner without the prescribed detention order, or refusal to produce the prisoner or his records to the authorities empowered to visit him (6 months' to 2 years' imprisonment and fine);

(iii) Refusal by any officer of the criminal investigation department to allow the medical examination of a person under police custody (1 to 3 months' imprisonment and/or fine); and

(iv) Torture or ordering torture in order to obtain a confession (6 months' to 3 years' imprisonment).

(b) Another section establishes penalties for the abuse of authority against individuals and the abuse of authority against the State (arts. 135 and 140 of the Penal Code). Thus "Any official of the administrative or judicial branches, any police officer, or any commander or officer of the police or armed forces who, when acting in that capacity, enters the home of a citizen against the latter's will, save in those cases provided for by the law and without the formalities prescribed therein, shall be liable to imprisonment for 2 months to 1 year and a fine of 500 to 3,000 Algerian dinars without prejudice to the application of article 107" (art. 135).

(c) Article 143 provides for heavier penalties for certain serious and ordinary offences committed by civil servants or public officials. It reads: "Except in those cases where the law specifically provides for penalties for serious or ordinary offences committed by civil servants or public officials,

if they are involved in other serious or ordinary offences which it is their responsibility to prevent and punish they shall be liable to the following penalties:

- For an ordinary offence, the penalty shall be doubled;

- For a serious offence, the sentences shall be as follows:

  (1) Long-term rigorous imprisonment for 10 to 20 years, if the penalty imposed on any other person guilty of the offence is long-term rigorous imprisonment for 5 to 10 years;

  (2) Life imprisonment if the penalty imposed on any other person guilty of the offence is long-term rigorous imprisonment for 10 to 20 years.

Apart from the cases just listed, the usual penalty shall be applied without increase".

Article 3: Equal rights of men and women

60. Equality of rights for men and women is established as a constitutional principle. Article 28 of the Constitution provides that "Citizens are equal before the law, and there shall be no discrimination on grounds of birth, race, sex, opinion or any other personal or social condition or circumstance". Article 30 adds: "The institutions shall seek to ensure the equality of rights and duties of all male and female citizens by eliminating the obstacles which impede the full development of the human personality and prevent the effective participation of all in political, economic, social and cultural life". Article 31 reads: "The fundamental freedoms and rights of man and the citizen are guaranteed. They constitute the common heritage of all Algerian men and women".

61. National legislation makes no distinction between men and women, who enjoy full equality of rights and duties. Furthermore, Algerian women enjoy specific rights which are expressly guaranteed or protected by the laws in force, such as the Family Code (Act No. 84-11 of 9 June 1984), which governs relations between members of the family. Algerian women have the right to acquire, administer, enjoy, dispose of or inherit goods acquired during marriage, and may dispose of them in the same way as men. Married women enjoy the rights and obligations in respect of ownership, administration and disposal of their personal property during marriage and on its dissolution. There is no universal or other community of property regime in Algeria. The goods owned by the woman at the time of her marriage, and any gifts, bequests or inheritance received by her before or after the marriage continue to be her exclusive property. She alone administers the proceeds of her work or occupation, and the husband may intervene to administer the proceeds of his wife's work only if the latter expressly authorizes him to do so. The law stresses the need for mandatory maintenance of the wife and even establishes penalties, including imprisonment, in the event of infringement of this obligation (art. 36 of the Family Code). Orders issued by the courts with respect to maintenance are enforceable, appeals notwithstanding, and without bond.

62. Algerian women have the same rights as men under civil law. They have the same legal capacity as men and freely exercise this capacity. Article 45 of the Civil Code stipulates that "No one may renounce his capacity or modify its conditions". Like men, Algerian women are included on jury lists drawn up during the last quarter of each year for the following year (art. 264 of the Code of Penal Procedure). They may therefore sit on a criminal court as sworn jurors.

63. Algerian women may vote and stand for election under the same conditions as those prescribed for men and are entitled to participate in the conduct of public affairs, sit in parliament and in departmental or local assemblies, hold positions in the civil service and be appointed to senior positions in government. They take an active part in the political, economic, social and cultural life of the country.

64. Algerian women may also enter all categories of educational establishments, including universities and vocational and technical institutions on the same basis as men. The curricula and examinations set are the same for all. Women have the same opportunities as men for obtaining scholarships. Adult women have equal access to literacy programmes.

65. There is no provision in the Algerian Penal Code or Civil Code which discriminates between men and women. Furthermore, in the interest of society in general and women in particular, Algerian legislation, in particular Ordinance No. 66/156 of 8 June 1966, which establishes the Penal Code, tries to combat the phenomenon of prostitution by severely punishing the incitement of minors to vice, soliciting and incitement to prostitution (arts. 342 to 349 of the Penal Code).

Article 4: States of emergency

66. In the event of exceptional public danger threatening the existence of the nation, the Algerian Constitution provides for a series of measures in article 86 (state of emergency and state of siege) and article 87 (state of exception). A state of emergency or state of exception is decreed, for a specific period, in the event of compelling necessity, by the President of the Republic after consultation with the Head of Government and the President of the Constitutional Council, in accordance with article 86 of the Constitution: "In the event of compelling necessity, the High Council of Security being assembled and having consulted the President of the National People's Assembly, the Head of Government and the President of the Constitutional Council, the President of the Republic shall decree a state of emergency or a state of siege for a specified period, and shall take all necessary measures for the re-establishment of the situation. The duration of the state of emergency or the state of siege may not be extended without the approval of the National People's Assembly".

67. A state of emergency is decreed, if the country is threatened by imminent peril, by the President of the Republic after consultation with the Constitutional Council and the consent of the High Council of Security and the Council of Ministers. The National People's Assembly meets as a matter of right. The High Council of Security is a body that was established on the basis of article 162 of the Constitution and is responsible for advising the

President of the Republic on all questions relating to national security. Article 87 of the Constitution regarding the state of emergency reads as follows: "Whenever the country is threatened by imminent peril to its institutions, its independence or its territorial integrity, the President of the Republic shall decree a state of emergency. This measure shall be taken in consultation with the Constitutional Council and with the consent of the High Council of Security and the Council of Ministers. The state of emergency empowers the President of the Republic to take the exceptional measures required in order to safeguard the independence of the Nation and the institutions of the Republic. The National People's Assembly shall meet as a matter of right. The state of emergency shall be terminated in the same manner and in accordance with the same procedures as stipulated above for its proclamation."

68. The constitutional provisions concerning the states of emergency, siege and exception are in complete conformity with the provisions of article 4. In a situation of a state of emergency or siege, which must be decreed in the manner prescribed, the President of the Republic takes the necessary measures for the re-establishment of the situation and may not extend the state of emergency or siege without the approval of Parliament. In a situation of exception which can be decreed, in the manner prescribed, only in the event of imminent peril threatening the institutions, independence and territorial integrity of the country, the President of the Republic takes the exceptional measures required in order to safeguard the Nation and the institutions of the Republic.

69. The power which the Algerian Constitution confers upon the President of the Republic to "take all necessary measures for the re-establishment of the situation" and the "exceptional measures required in order to safeguard the independence of the Nation and the institutions of the Republic" cannot be limited by a restrictive interpretation of the terms "to the extent strictly required by the exigencies of the situation". Algeria recognizes that these measures must not be incompatible with the other international obligations which it has undertaken, must not be discriminatory and must not derogate from the fundamental rights of the human being referred to in article 4, paragraph 2 (right to life; prohibition of torture, slavery, servitude, imprisonment merely on the ground of inability to fulfil a contractual obligation; non-retroactivity of criminal law; right to legal personality; freedom of thought, conscience and religion).

70. Since ratifying the Covenant, Algeria has not decreed a state of siege, emergency or exception. It considers itself bound by the provisions of article 4, paragraph 3, of the Covenant, which requires that States parties shall notify the Secretary-General of the United Nations of any exceptional measures they have been called upon to take.

Article 5

71. The 1989 Constitution broadens the scope and exercise of human rights and freedoms. Their applicability derives directly from the Constitution, which subjects their exercise to legal restriction only in very few cases. The first part of this report showed that the Constitution devotes an entire chapter to rights and freedoms, which are set out in some 30 articles.

In Algeria, the rights recognized by the Covenant enjoy the status of constitutional principles, from which no derogation is possible by treaty, law or regulation, under penalty of unconstitutionality. We have also stressed that the Constitutional Council ensures that laws comply with the Constitution: when the Council considers a legislative provision or regulation to be unconstitutional, it ceases to have effect from the day of the Council's decision. Similarly, if it considers a treaty, agreement or convention to be unconstitutional, it may not be ratified.

72. From the above, it is clear that an international convention or law may neither allow derogation from the basic principles enshrined in the Constitution nor restrict the exercise of the rights and freedoms defined therein. Moreover, national legislation is required to comply with the international obligations entered into by Algeria, all the more so since treaties ratified by Algeria form an integral part of domestic law and take precedence over the law.

73. Algeria has unreservedly subscribed to the provisions of article 5, paragraph 2, under which there must be no restriction upon, or derogation from, any of the fundamental rights recognized in Algeria pursuant to laws, conventions, regulations or custom on the pretext that the Covenant does not recognize such rights or that it recognizes them to a lesser extent.

74. As regards the obligation for the State, groups or persons to refrain from any activity or act aimed at the destruction of the rights and freedoms recognized in the Covenant, it is important to note that the Algerian Constitution adopts a similar principle by stipulating as follows: (i) The institutions shall seek to ensure the equality of rights and duties of all male and female citizens (art. 30); (ii) The right to establish political associations is recognized. However, this right may not be invoked in order to violate fundamental freedoms (art. 40); (iii) Every citizen shall loyally fulfil his obligations towards the national community (art. 59); (iv) All personal freedoms shall be exercised with due respect for the rights to which others are entitled under the Constitution (art. 60).

75. The Penal Code punishes acts that infringe the rights and freedoms of others (serious and ordinary offences against the public interest and against the Constitution, including electoral offences, infringements of liberty, abuse of authority against individuals and against the public interest, insulting behaviour and violence against officials, usurpation and improper use of office, serious and ordinary offences against individuals, including capital offences, torture and other intentional violence, infringements of personal freedom and of inviolability of the home, abduction; damage to the honour and reputation of persons and violation of secrecy; exposure and neglect of children or legally incompetent persons; serious and ordinary offences designed to prevent identification of children, kidnapping and failure to speak for minors; immoral acts; inciting minors to vice, and prostitution, etc.).

76. Various other provisions of sectoral laws establish the duty to respect the rights of others. The following examples, which are not exhaustive, may be cited:

(a) The Political Associations Act (No. 89-11 of 5 July 1989) stipulates that any association must by its aims contribute to consolidation of the sovereignty of the people and of respect for their freedom of choice, to safeguarding the republican character of the State and the fundamental freedoms of citizens, to respect for the democratic system, etc.

(b) The Information Act makes it mandatory for journalists strictly to observe professional ethics. They are required in particular to respect the constitutional rights and personal freedoms of citizens and to refrain from justifying, either directly or indirectly, racism, intolerance or violence.

(c) The Public Meetings and Demonstrations Act stipulates that public meetings are free. Those responsible for the meeting are, however, required to ensure that it takes place in an orderly fashion and in compliance with the law, and that the constitutional rights of citizens are respected.

Article 6: Right to life; capital punishment

77. The right to life, which is the basis of all human rights, is enshrined in articles 33 and 34 of the Constitution. Although the death penalty is indeed the maximum sentence laid down by article 5 of the Algerian Penal Code, it should be noted that it is only exceptionally carried out in Algeria, and that it is intended to have a deterrent effect. Cases in which it has been carried out have involved crimes of violence committed under aggravating circumstances, and in particular crimes against children.

78. Amnesty is a prerogative under the law, as specified in article 115, paragraph 7, of the Constitution:

> "The National People's Assembly shall legislate in the areas assigned to it by the Constitution: general rules of criminal law and criminal procedure and, in particular, the determination of serious and ordinary offences, the application of the corresponding penalties of any kind, amnesty and extradition".

79. Furthermore, the President of the Republic has the right to grant a pardon and to reduce or commute a sentence (art. 74, para. 8, of the Constitution). The right of pardon has frequently been exercised by the President for the benefit of convicted persons who have applied for it. Decrees granting pardon are also issued by the President on the occasion of major national events.

80. As far as criminal liability is concerned under article 50 of the Penal Code the death sentence is not imposed on minors aged between 13 and 18: "If a minor is liable to the death penalty or life imprisonment, he shall be sentenced to 10 to 20 years' imprisonment". Pursuant to article 49 of the Code, "a minor aged under 13 may be subjected only to protective measures or re-education measures".

81. In Algiera, the death sentence is not carried out on pregnant women. Article 16 of the Prison Organization Code provides for the deferment of penal sentences imposed, in particular, on "pregnant women or the mothers of children aged under 24 months". Article 197 of the same Code stipulates that "The

death penalty may only be carried out after an appeal for pardon has been rejected. The death penalty may not be carried out in the case of a pregnant woman or a woman nursing a child aged under 24 months, or a seriously ill convicted prisoner or one who has become insane. Executions may not be carried out on national or religious holidays, on a Friday or during the period of Ramadan".

82. Decree No. 72-38 of 10 February 1972 determines the manner in which the death sentence is carried out. The person under sentence of death must be informed of the rejection of his application for pardon at the time of his execution, which shall not be public. Any person sentenced to death is entitled to the support of a minister of his religion and to the presence of a doctor. A record of the execution of the death penalty is drawn up on the spot by the court clerk and signed by the magistrates attending the execution.

83. The death penalty may be carried out only by virtue of a final judgement handed down by a criminal court with jurisdiction over acts classified as serious offences, and over ordinary and minor offences associated with them, for which a final committal order has been issued by the indictment division. Application for judicial review may be made against the orders of the indictment division and the judgements of the criminal court.

84. Within the Ministry of Justice, a commission is responsible for revising the Penal Code. It has begun consideration of the question of the death penalty. It would appear from the Committee's consultations that opinion is in favour of the abolition of the death penalty for economic offences. One of the first results of its work has been the abolition of the economic section of the criminal court (Act No. 90-24 of 28 August 1990 amending the Code of Penal Procedure).

85. Algeria is a party to the Convention on the Prevention and Punishment of the Crime of Genocide, which it ratified on 31 October 1963, and subscribes to the provisions of article 6, paragraph 3, of the Covenant, under which nothing in the article authorizes any State party to derogate in any way from any obligation assumed under the provisions of that Convention.

Article 7: Prohibition of torture

86. In Algeria, the prohibition of torture is a constitutional principle, and various legal and other measures have been adopted fully to enforce this prohibition in law and in practice. Furthermore, Algeria is a party to numerous international instruments, including the African Charter on Human Rights and Peoples' Rights, the 1966 Covenants, the International Convention on the Elimination of All Forms of Racial Discrimination, the Geneva Conventions of 1949 - which contain specific provisions against torture and ill-treatment, and the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Algeria has made no reservations to the latter Convention and has recognized in full the competence of the Committee against Torture. It submitted its initial report in February 1991.

87. All laws and regulations derive their inspiration from this principle of the total prohibition of torture and respect for the dignity and physical and moral integrity of the human personality. Acts of torture are criminal offences. No legal provision authorizes a State official to order or carry out acts of torture or other forms of violence or ill-treatment. Furthermore, the Penal Code and various sectoral laws such as the Prison Organization and Rehabilitation Code punish and/or prohibit abuses of authority as well as violations of human freedom of dignity (see below, comments on arts. 15 and 16). The objective of current legislation is to forestall and prevent any act of torture. It has recently been amended (see relevant observations in the first part of this report) so as to increase measures for the protection of human rights.

88. The Penal Code punishes acts of torture and other forms of violence and ill-treatment. Articles 254 to 280 of the Code provide for the punishment of murder and other capital offences and intentional acts of violence; acts of torture constitute a capital offence that carries the death penalty. Article 261 establishes the death penalty for anyone guilty of homicide, while article 262 stipulates that "Any offender, regardless of the nature of the charge against him, who uses torture or commits acts of cruelty in the perpetration of his offence shall be punished as for first-degree murder". Article 255 classifies as first-degree murder any homicide committed with premeditation or in an ambush. Article 257 defines an ambush as "waiting for a person for a long or short period in one or more places for the purpose of either killing him or assaulting him".

89. A series of articles of the Penal Code relate to intentional violence, which is punished by appropriate penalties. Article 264 relating to injury, striking and wounding, or other violence or assault causing illness or more than 15 days' incapacity for work calls for a sentence of from two to five months' imprisonment and a fine. The period of imprisonment may be increased to five years if the violence has involved mutilation, blindness or other infirmity; in the case of accidental homicide, the offender is liable to a prison sentence of 10 to 20 years. Article 265 further increases the penalties in cases of premeditation or ambush. Unintentional violence carries lighter penalties.

90. The Penal Code contains specific provisions punishing persons guilty of violence against minors and of wilfully depriving minors of food or care in such a way as to jeopardize their health (arts. 269 to 272). The penalties are imprisonment for 3 to 20 years, depending on the consequences of the violence or deprivation. The penalty is life imprisonment if the result has been unintentional homicide that is nevertheless attributable to a habitual practice. "If the striking, wounding, violence, assault or deprivation was committed with intent to cause death, the offender shall be punished as for murder or attempted murder" (art. 271).

91. Article 274 prescribes a sentence of life imprisonment for anyone guilty of castration. If death has resulted therefrom, the offender is punishable by death. The Penal Code also establishes penalties for the administration of substances that are harmful to health (arts. 275 and 276) and for threats (arts. 284 et seq.). A section of the Code is devoted to infringements of personal freedom, the inviolability of the home and abduction. Various

articles concern kidnapping and sequestration (arts. 291 and 292). If the victim of the kidnapping, arrest, detention or sequestration has been physically tortured, the offender is liable to the death sentence (art. 293).

92. The Penal Code also prescribes punishment for damage to a person's honour or reputation (damage to honour, injurious behaviour, defamation, etc.), as well as for exposure and neglect of children or legally incompetent persons, kidnapping and failure to speak for minors, abandonment of the family and immoral acts. Thus, rape is punishable by 5 to 10 years' imprisonment. This penalty may be increased to 10 to 20 years if the rape has been committed against a girl aged under 16. If the rapist is a relative of the victim or a person with authority over her, this constitutes a further aggravating circumstance.

93. Medical ethics are governed by Act No. 90-17 of 31 July 1990, which amends and supplements the Health Protection and Promotion Act (No. 85-05 of 16 February 1985). Pursuant to article 168/1, the National Ethical Council of Health Sciences is "responsible for providing guidance and issuing views and recommendations on the removal of tissues or organs, transplants and experiments involving organs, as well as any other therapeutic methods required by the development of medical techniques and scientific research, while ensuring respect for the life of human beings and the protection of their physical integrity and dignity ...". Article 168/2 stipulates that "Experiments on human beings for the purposes of scientific research shall comply with the moral and scientific principles governing the exercise of medicine. It shall require the free and informed consent of the subject or, failing that, of his legal representative. Such consent shall be required at all times".

Article 8: Prohibition of slavery, servitude and forced or compulsory labour

94. Slavery, servitude and forced or compulsory labour are alien to Algerian society. As soon as Algeria became independent, all laws that might constitute a violation of human rights were repealed. National labour law was developed in accordance with the relevant international standards, with the welfare of workers as its objective.

95. Algeria is a party to the international conventions prohibiting slavery, servitude, forced or compulsory labour or other similar practices, and in particular the following: the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; the 1926 Geneva Convention; the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the 1921 Convention for the Suppression of the Trade in Women and Children; the 1933 Convention for the Suppression of the Trade in Adult Women, as amended in 1947; the International Convention for the Suppression of the White Slave Trade; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Convention on the Suppression and Punishment of the Crime of Apartheid; and the International Convention against Apartheid in Sports.

96. Algeria is a party to a number of International Labour Organisation conventions, including the following: Convention No. 29 on Forced Labour (1930); Convention No. 87 on Freedom of Association and Protection of the Right to Organize (1948); Convention No. 98 on the Right to Organize and Collective Bargaining (1949); Convention No. 100 on Equal Remuneration (1951); Convention No. 105 on the Abolition of Forced Labour (1957); and Convention No. 111 on Discrimination in respect of Employment and Occupation (1958).

97. In addition to these conventions, which now form an integral part of Algerian substantive law, a number of legal measures have been adopted in order to ensure respect for human rights and freedoms, in accordance with these international standards which are henceforth complied with in Algeria. The Constitution contains a number of articles prohibiting the exploitation of human beings and underscoring the purpose of institutions to promote their fulfilment (arts. 8, para. 4, 28, 30 to 32, 34, etc.). The Algerian Penal Code, in particular articles 291 to 295, devotes special attention to the punishment of any act intended to jeopardize the personal liberty of citizens. Articles 321 and 326 to 330 are more particularly designed to protect minors.

98. As far as the suppression of the trade in human beings and the exploitation of prostitution are concerned, Algerian legislation contains a set of measures designed to eradicate such practices by focusing on their causes and consequences. Algerian criminal law focuses in particular on the suppression of the trade in human beings and the exploitation of prostitution; it contains specific articles to punish the incitement of minors to vice and soliciting. Article 96 of the Algerian Civil Code stipulates that "The contract shall be null and void if its purpose is contrary to public order and morals", while article 97 provides that "The contract shall be null and void if it entails unjustified obligations or obligations contrary to public order or morals". Article 46 reads: "No one may renounce his personal freedom".

99. Rehabilitation measures for the victims of prostitution by the Ministries of Justice and Health, which have established several specialized departments to assist the following groups: young women convicted of prostitution, if the judge decides to place them in an institution; potential victims of sexual deviance who seek help; young women placed in institutions to remove them from the consequences of prostitution or sexual deviation; young women who, after investigation, prove to have been, or are liable to be, victims of sexual deviance. These institutions provide social, health, psychological and educational care for the internees, while ensuring their vocational rehabilitation so as to enable them to resume normal life in society.

Article 9: Liberty and security of person

Article 9, paragraph 1

100. Individuals are entitled to liberty and security of person, and no one in Algeria may be arbitrarily arrested or detained. Persons may be arrested or detained only in the manner, on grounds and under the conditions laid down by law. Persons who fail to comply with these requirements are liable to criminal prosecution, even if they commit the violations of the law in the performance

of their duties. Article 44 of the Constitution stipulates that "No one may be prosecuted, arrested or detained except in the cases determined by law and in accordance with the procedures prescribed thereby". And, moreover, the Constitution directly governs the regime of police custody and subjects it to judicial control. Under article 45 of the Constitution, a person held in police custody is entitled immeditely to contact his family and to be examined by a doctor of his choice. The Constitution furthermore stresses that detention in police custody is exceptional in character and may not be extended otherwise than as prescribed by law. The recent reform of the Code of Penal Procedure has made it possible to reinforce the safeguards surrounding detention in police custody (see below).

101. A whole section of the Penal Code is devoted to violations of personal freedom, the inviolability of the home, abduction, kidnapping and sequestration. Article 291 establishes penalities for kidnapping, arbitrary detention or sequestration in the following terms:

> "Any person who kidnaps, arrests, detains or sequesters another person without an order from the established authorities, except in those cases authorized or ordered by law, shall be sentenced to rigorous imprisonment for 5 to 10 years. The same penalty shall apply to any person who allows a place to be used in order to detain or sequester the other person. If the detention or sequestration has continued for more than a month, the penalty shall be 10 to 20 years' imprisonment."

It should be noted that the wording of this article in no way makes it possible to justify such acts by an order received, as the conditions laid down are cumulative: individuals may not be arrested without an order from the established authorities or in circumtances other than those allowed by law.

> "If the arrest or kidnapping has been carried out by a person or persons wearing an official uniform or insignia or items that appear to be official under the terms of article 346, or using a false identity or a false order from the authorities, the penalty shall be life imprisonment. The same penalty shall apply if the arrest or kidnapping has been carried out using motor transport or if the victim has been threatened with death" (art. 292).

> "If the victim of the kidnapping, arrest, detention or sequestration has been physically tortured, the offenders shall be liable to the death penalty" (art. 293).

> "Any person who, through the use of violence, threats of fraud, kidnaps another person or causes another person to be kidnapped, regardless of that person's age, shall be sentenced to from 10 to 20 years' rigorous imprisonment. If the victim has been physically tortured, the offender shall be liable to the death penalty. If the purpose of the kidnapping was to obtain payment of a ransom, the offender shall also be liable to the death penalty" (art. 293 bis).

The Penal Code also establishes penalties for violations of freedom committed by persons in the performance of their duties (see above, comments on art. 2, in particular para. 59).

101 bis. The Prison Organization and Rehabilitation Code (Ordinance No. 72-2 of 10 February 1972) stipulates: "Sentences in criminal proceedings may be executed only when the judgement has become final" (art. 8); "For a custodial penalty to be enforced, a copy of the judgement or decision shall be drawn up in order that the sentenced prisoner may be admitted to prison" (art. 11); "Every penal establishment shall keep a prison register" (art. 13); and "No official responsible for the re-education and social rehabilitation of prisoners may, under penalty of prosecution for arbitrary detention, detain a person without a proper detention order or a definitive sentence, previously recorded in the prison register referred to in the preceding article" (art. 14).

102. Article 110 of the Penal Code establishes penalties for arbitrary detention in the following terms:

> "Any rehabilitation official in a prison establishment or in premises in which detainees are held who has accepted a prisoner without a lawful committal order, or has refused, without such refusal being justified by a prohibition order from the examining magistrate, to present the prisoner to the authorities or to persons authorized to visit him, or has refused to present his records to the said authorized person is guilty of arbitrary detention and is liable to six months' to two years' imprisonment and a fine of 500 to 1,000 dinars."

Article 9, paragraph 2

103. The procedural rules relating to arrest are set out in articles 109 to 122 of the Code of Penal Procedure, which deal with judicial warrants and their execution:

> "The examining magistrate may, as appropriate, issue an arrest warrant, a detention warrant or an arrest and detention warrant.
>
> "Every mandate shall specify the nature of the charge and the relevant articles of the law. It shall specify the identity of the accused; it shall be dated and signed by the issuing magistrate and shall bear his stamp. Warrants issued by him shall be countersigned by the government procurator and transmitted by him" (art. 109).
>
> "The arrest warrant is the order from the judge to the police immediately to bring the accused before him. The warrant is served and enforced by an officer of the criminal investigation department or by an ordinary police officer, who shall serve the warrant on the accused and provide him with a copy thereof. The government procurator may issue an arrest warrant" (art. 110).

Article 9, paragraph 3

104. Any person arrested or detained for a criminal offence must be brought before the examining magistrate as quickly as possible and must be immediately questioned. It should be mentioned that the Code of Penal Procedure was amended by Act No. 90/24 of 18 August 1990 in order to provide accused persons with greater guarantees. Thus the former article 112 of the Code read:

"The accused, having been brought before the examining magistrate pursuant to an arrest warrant, shall be immediately questioned. If it is impossible to carry out this examination immediately, he shall be transferred to a prison establishment, in which he may not be detained more than 48 hours. When this period has expired, and if he has still not been examined, he shall be automatically brought by the chief of the prison establisment before the government procurator, who shall require the magistrate responsible for the examination or, in his absence, any other magistrate immediately to carry out the examination, failing which the accused shall be released."

This article has been amended to read:

"The accused, having been brought before the examining magistrate pursuant to an arrest warrant, shall be immediately questioned, in the presence of his counsel. If it is impossible to carry out this examination immediately, he shall be brought before the government procurator, who shall require the magistrate responsible for the examination or, in his absence, any other magistrate immediately to carry out the examination, failing which the accused shall be released."

105. If, for the purposes of the inquiry, the police officer has to detain a person, he "shall immediately inform the government procurator, and the period of detention may not exceed 48 hours. He shall, moreover, be required to provide the detained person with every means to contact his family immediately and directly and receive visits" (Code of Penal Procedure, art. 51, para. 1, as amended). "If there is sufficient serious and consistent evidence on which to charge a person, he shall bring that person before the government procurator and may not keep him in custody for more than 48 hours" (ibid., art. 51, para. 2). "On expiry of the period of custody, the detainee shall undergo a compulsory medical examination, either at his own request or at the request of his counsel or family. The examination shall be carried out by a doctor of his choice. He shall be informed of this right" (ibid., art. 51, para. 4, as amended). Breach of the provisions concerning the duration of police custody shall render the police officer concerned liable to the penalties for arbitrary detention (ibid., art. 51, para. 5). As we have already seen, the above-mentioned guarantees have been made constitutional principles (Constitution, art. 45).

106. In the case of serious offences, the pre-trial proceedings are compulsory (Code of Penal Procedure, art. 66). Pursuant to the law, the examining magistrate carries out all the investigatory acts he deems necessary in order to ascertain the truth. The accused is summoned for questioning and, if he fails to appear, an arrest warrant is issued by the examining magistrate. On the occasion of the first appearance of the accused, the magistrate verifies his identity, and informs him specifically of each of the acts with which he is charged and of his right to remain silent. He also informs him of his right to chose a counsel and, if he fails to do so, the magistrate appoints a counsel ex officio, if the accused so requests (ibid., art. 100). "The accused may communicate freely with his counsel from the moment he is detained. The examining magistrate has the right to prohibit communication for a period of 10 days. In no circumstances may this prohibition apply to the counsel of the accused" (ibid., art. 102, as amended).

107. The execution of judicial warrants is protected by guarantees as established in articles 109 to 122 of the Code of Penal Procedure. Accordingly,

> "The accused, having been brought before the examining magistrate pursuant to an arrest warrant, shall be immediately questioned, in the presence of his counsel. If it is impossible to carry out this examination immediately, he shall be brought before the government procurator, who shall require the magistrate responsible for the examination or in his absence, any other magistrate immediately to carry out the examination, failing which the accused shall be released" (ibid., art. 112, as amended).

Any accused person arrested pursuant to an arrest warrant who is held for more than 48 hours in a local prison without having been examined shall be deemed to be arbitrarily detained. Any magistrate or official who has ordered or knowingly tolerated such detention shall be liable to the penalties established by the provisions relating to arbitrary detention (ibid., art. 113). The examining magistrate may issue a detention warrant only after the accused has been questioned and if the offence carries a correctional penalty of imprisonment or other more serious penalty (ibid., art. 118). The suspect is examined within 48 hours of his being placed in detention. Failing this, and on expiry of this period, the provisions of articles 112 and 113 apply (ibid., art. 121).

108. Pre-trial detention is an exceptional measure. Article 123, as amended, of the Code of Penal Procedure clearly establishes this principle and adds:

> "However, if the obligations relating to judicial control are inadequate, pre-trial detention may be ordered or maintained in the following circumstances:
>
> (1) If it is the only means of preserving the proof or material evidence or of preventing pressure from being exerted on witnesses or victims, or of preventing collusion between the suspects and their accessories which might hamper the discovery of the truth;
>
> (2) If it is necessary to protect the suspect, to put an end to the offence or to prevent its repetition;
>
> (3) If the suspect wilfully fails to comply with his obligations arising from the judicial control ordered."

Pre-trial detention may not exceed 20 days in the case of an ordinary offence (Code of Penal Procedure, art. 124) and 4 months in other cases (art. 125). It may be extended only once, by a substantiated order from the examining magistrate, if the maximum penalty laid down by the law is more than three years' imprisonment, and twice in the case of a serious offence. Neither extension may exceed four months (art. 125).

109. Flagrante delicto is governed by articles 59, 338 and 339 of the Code of Penal Procedure. It cannot apply to press and political offences, as stated in article 59, which adds:

"In cases involving flagrante delicto and if the offender cannot provide satisfactory guarantees as regards representation where the offence carries a prison sentence, and if the examining magistrate has not yet been seized, the government procurator shall issue a detention warrant against the offender after having questioned him about his identity and about the acts of which he is suspected. He shall immediately seize the court in accordance with flagrante delicto procedure. The case shall be heard within eight days of issue of the detention warrant."

Article 338 stipulates as follows:

"A person brought before the court under flagrante delicto procedure shall be informed by the presiding judge that he is entitled to request a period in which to prepare his defence; a record of his having been so informed and of his reply shall be entered in the judgement. If the accused makes use of this right, the court shall grant him a period of at least three days."

If the case is not ready to be heard, the court orders it to be deferred to a subsequent hearing for further information to be gathered and, if appropriate, grants the accused pre-trial release, with or without security (art. 339).

110. Judicial control may be ordered by the examining magistrate if the accused is liable to a penalty of ordinary imprisonment or a more serious penalty. The magistrate decides the control measures to which the accused may be subjected, the measures being restricted to those set out in the amended article 125 bis of the Code of Penal Procedure. The magistrate may, if he has reasonable grounds, add or modify one of the obligations set out in this article.

111. In every case, whenever pre-trial release is not automatic, it may be ordered ex officio by the examining magistrate, after consultation with the government procurator. The accused is required to undertake to attend all the procedural acts and to keep the examining magistrate informed of his whereabouts. The government procurator may also apply for it at any time. The examining magistrate is required to take a decision within 48 hours of the date of the application, failing which the accused is immediately released (Code of Penal Procedure, art. 126).

Article 9, paragraph 4

112. Any person deprived of his liberty is entitled to apply for a remedy to a court, which must decide without delay on the lawfulness of the person's detention and order his release if the detention is unlawful. Arbitrary detention and infringements of rights and freedoms are punished by the Penal Code (see above). Any victim of such violations of the law may bring a criminal indemnity action for the injury suffered and/or initiate prosecution proceedings for the enforcement of the penalties laid down by the Penal Code. Moreover, throughout his period of detention and at every stage of the proceedings against him, remedies are available to a victim whereby he may safeguard or restore his rights.

113. It is appropriate to recall the provisions of the Code of Penal Procedure described above under which police officers are required to allow a person held in police custody to undergo a medical examination at his own request, or at the request of his counsel or family, and in any case to inform him of his right to make such a request and to be examined by a doctor of his choice. Every police officer is also required to draw up a record of statement as prescribed by law, which shall be signed by the person concerned or indicate his refusal to sign. The statement must in particular indicate the date and time on which the person held in custody was either released or brought before the competent magistrate (art. 52). All records or reports have probative value only if they are correct as to form and if their author has acted in the performance of his duties and has reported on a matter within his competence which he has personally seen, heard or observed. The victim may also invoke nullity of the information. Articles 157 and 161 of the Code of Penal Procedure deal with this question. Thus the requirements concerning interrogation of the accused and hearing of any claim for indemnification must be observed under pain of nullity of both the act itself and the subsequent proceedings. There is also nullity if the rights of the defence or of any party in the case have been violated. A party may always refrain from invoking nullity that has been declared in his own interest. Such a waiver must be explicit.

114. The indictment division closely monitors pre-trial detention. Thus the president of the division may require any necessary explanations from the examining magistrate regarding pre-trial detention; he may visit any prison establishment within the court's competence to ascertain the conditions in which an accused person is detained. If the detention appears unlawful, he makes the necessary observations to the examining magistrate. He may seize the indictment division in order that it may decide whether to keep an accused person in detention (Code of Penal Procedure, arts. 204 and 205). The indictment division also monitors the activities of police officers. It may be seized, either by the procurator-general or by its president, of any reported lapses by officers in the performance of their duties. It may take action of its own motion, on examination of the proceedings submitted to it (ibid., arts. 206 and 207). It orders an inquiry and may, without prejudice to any disciplinary or penal sanctions, address comments to the police officer or decide to suspend or dismiss him (ibid., arts. 208 to 211).

115. Any accused person may apply for the lifting of judicial control and pre-trial release. Judicial control may be lifted by the magistrate ex officio, on the application of the government procurator or at the request of the accused, subject to approval by the government procurator. The examining magistrate must take a decision on the accused's application within 15 days, failing which the accused or the government procurator may directly seize the indictment division, which must decide within 30 days of being seized (Code of Penal Procedure, art. 125, para. 2, as amended). Pre-trial release may be ordered ex officio by the magistrate or be applied for by the government procurator; a request may be made by the accused or his counsel to the examining magistrate at any stage in the proceedings (ibid., arts. 126 and 127). In the latter case, the examining magistrate must take a decision, by a specially substantiated order, within 10 days following the date of the communication to the government procurator. If the examining magistrate fails to take a decision within this time-limit, the accused may directly seize the indictment division with his application, and the division

is required to take a decision on the basis of the written and substantiated submissions of the government procurator within 30 days of the application, failing which the accused is automatically granted pre-trial release, unless verification has been ordered in connection with his application. The government procurator also has the right to seize the indictment division under the same conditions. A further application by the accused or by his counsel for pre-trial release may only be made one month after his previous application has been turned down (ibid., art. 127).

116. If a trial court is seized, it is responsible for taking a decision on pre-trial release. When the court takes a decision relating to an application for such release, an appeal must be made within 24 hours of its decision. The accused is kept in detention until a decision has been made on the appeal by the government procurator's office, and in all cases until expiry of the deadline for the appeal, unless the procurator agrees to immediate release. Prior to transfer to the criminal court and during the period between that court's sessions, this power is exercised by the indictment division. In the case of an application for judicial review and until the supreme court has passed judgement, a decision relating to the application for pre-trial release is taken by the court which last dealt with the merits of the case. If the review application has been made against a decision of the criminal court, a decision on detention is made, within 45 days, by the division of the Supreme Court dealing with the application, failing which the accused is automatically granted pre-trial release, unless verification has been ordered relating to his application. Should the court declare itself incompetent, and in general in all cases in which no court has been seized, the indictment division deals with applications for pre-trial release (Code of Penal Procedure, art. 128).

Article 9, paragraph 5

117. Article 46 of the Constitution stipulates that "Judicial error shall create an entitlement to compensation from the State. The conditions and procedures for compensation shall be determined by law." In addition to the provision for compensation in civil and criminal matters, available to any person who considers that he has been injured, Act No. 86-05 of 4 March 1986, which amended and supplemented the ordinance of 8 June 1966 laying down the Code of Penal Procedure, establishes the possibility for any convicted person whose innocence is established by the Supreme Court to obtain, either himself or through his rightful claimants, damages for the moral and material injury caused by the conviction.

118. The provisions of this Act, which have been incorporated in the Code of Penal Procedure, are as follows:

> "Any accused person who has been acquitted or discharged may request the court by which he was tried to publish the decision in the manner chosen by him" (art. 125, para. 4).
>
> "The decision by the Supreme Court establishing a convicted person's innocence entitles him or his rightful claimants to damages for the moral and material injury caused by his conviction. The application for compensation made by the accused or by his rightful claimants shall be admissible at any stage in the review procedure" (art. 531 bis).

"Damages awarded to the victim of a judicial error or to his rightful claimants, the costs of publishing the court's decision and court expenses shall be borne by the State, unless the latter lodges an appeal against the claimant, informant or person whose false testimony led to the conviction.

"If the applicant so requests, the review decision establishing the innocence of the convicted person shall be publicized within the jurisdiction of the court that handed down the conviction, in the commune where the offence was committed, in the commune in which the applicant for review resides and in that in which the victim of the error last resided if he is deceased.

"Similarly, the decision shall also be published in the press in three newspapers chosen by the court that handed down the decision" (art. 531 bis, para. 1).

Article 10: Humane conditions of detention

119. The rules that apply to the treatment of detainees are laid down in: Ordinance No. 72-2 of 10 February 1972 establishing the Prison Organization and Rehabilitation Code; Ordinance No. 72-3 relating to the protection of children and young persons; Decree No. 72-35 of 10 February 1972 establishing a coordinating committee for the promotion of prisoners' rehabilitation and work; Decree No. 72-36 of 10 February 1972 relating to the observation and orientation of prisoners.

120. Furthermore, the Code of Penal Procedure strictly governs pre-trial investigation procedures, search operations, interrogation and inquiry methods, as well as police custody and pre-trial arrangements, and provides safeguards, having regard to the recognized right of the defence (see above, observations on the review of the Code of Penal Procedure, one object of which was to strengthen the right to defence and the safeguards that must be provided in the case of police custody and pre-trial detention). It should be added that article 52 of the Code of Penal Procedure makes it compulsory for all officers of the judicial police "to enter on the record of the statement made by any person held in custody, the length of the questioning they underwent, the rest periods separating the interrogations, and the date and time when the person was either released or brought before the competent judge. This entry must be accompanied, in the margin, by the signature of the person concerned or an indication of his refusal to sign. It must indicate the grounds for the custody. A similar entry must also be made in a special register, numbered and initialled by the government procurator, which must be kept for this purpose in all police or gendarmerie stations where persons may be held in custody".

121. The preamble to the Prison Organization and Rehabilitation Code reasserts Algeria's attachment to respect for individual freedoms and to the principle of the legality of penalties, the upholding and enforcement of which is vested in the judiciary; it also states that, in determining the regulations applicable to the treatment of detainees, it follows the recommendations of the United Nations. In article 1 the Code emphasizes the objective of enforcement of criminal sanctions as a means of defending society but also of

contributing to the re-education of offenders and helping them to readjust in order to return to their place in their family, at work and in society. In article 2, it stipulates that prisoners shall be deprived of the exercise of their rights only in so far as is necessary to achieve the objective of the sentences imposed and in accordance with the law. These provisions ensure the protection of detainees, who are a particularly vulnerable category of persons, against torture and all similar acts and practices or acts of an inhuman, cruel or degrading nature. Other provisions of the Code provide even greater protection, as illustrated below:

(a) Prison organization is based on the principle of the individualization of sentences and of treatment. Accordingly, one national and two regional observation and orientation centres have been established. Prisoners are sent to and classified within prisons on the basis of their penal status, the seriousness of the offence, their age, their personality and the extent to which they have reformed. After their stay in the centre, prisoners are sent either to a closed prison, or to another institution within the progressive system (outside work site; restricted freedom; open prison). The closed prisons include two types of specialized centres, one for women and the other for minors;

(b) The implementation of criminal sanctions may be postponed in certain cases, in particular in the case of a serious illness incompatible with a prison sentence, a death in the family, if the prisoner has to take an important examination or, in the case of the imprisonment of both spouses, if their absence would cause irreparable harm to minor children, if a woman is pregnant or the mother of a child less than two years of age, etc. (Code, art. 16);

(c) In closed regimes, the duration of solitary confinement may not exceed one tenth of the length of the sentence, or three years in the case of persons sentenced to life imprisonment (Code, arts. 35 and 36). Dangerous prisoners may be kept in isolation only by a decision of the visiting magistrate, who shall determine the duration of this measure (Code, art. 37);

(d) The Code devotes a whole section (arts. 41 to 71) to the conditions of detainees and to their rights and duties, providing, in particular, as follows: the right to hygiene and to hygienic buildings and places of detention; the right to free medical assistance; the right to healthy and adequate food; the right to visits (neither a prohibition on communicating nor sanctions of any kind may suppress or restrict the detainee's right freely to communicate with his counsel); his right to correspondence, etc.;

(e) The Code focuses on measures for the rehabilitation and education of detainees: organization of literacy courses, general instruction, vocational training and the possibility of taking higher education courses by correspondence. Diplomas obtained must never mention the fact that the holder is a prisoner. Subject to provisions relating to order or security within prisons, labour legislation on the hours of work, hygiene and security extends to detainees in employment. Furthermore, the working hours and conditions of prison labour used on outside work sites are subject to the legislation applicable to free workers. Specific measures apply to the rehabilitation of minors, who are, moreover, held in specialized centres.

122. It should be added that the Prison Organization and Rehabilitation Code forbids, "under pain of punishment, personnel from the Department of Re-education and Social Rehabilitation of Prisoners and any persons coming into contact with prisoners from taking direct or indirect action vis-à-vis the prisoners in order to influence their defence or choice of counsel" (art. 53). The same Code accords prisoners the right, "in the event of infringement of their rights, to lodge a complaint with the governor. The latter shall examine the complaint, ascertain the accuracy of the allegations made and take appropriate action on it. If the alleged acts constitute a serious or ordinary offence, the governor shall immediately report them to the government procurator in the court within whose jurisdiction his establishment is situated and to the visiting magistrate. Where a prisoner finds that no action has been taken on his application, he shall be authorized to inform the visiting magistrate directly. Prisoners shall also have the right to lodge complaints and submit grievances to the officials and magistrates responsible for making periodic inspections of prisons. The interview shall be held without staff members being present" (art. 63). In practice, representatives of human rights associations (Algerian Human Rights Leagues, national section of Amnesty International, national Anti-Torture Committee) have also been allowed to participate in inspections. The Code further stipulates that prison personnel "may not use force against prisoners except in self-defence, in the event of an attempted escape or violent resistance, or in response to a refusal to carry out orders. If they do resort to force, they may do so only to the extent strictly necessary" (art. 71). The Code adds that prison administration officials and staff "who, through negligence, carelessness or non-observance of regulations, jeopardize the health of prisoners or prison order or security shall be liable to not less than two years' imprisonment" (art. 204).

123. Among the preventive measures which the authorities are endeavouring to promote, attention should be drawn to the importance attached to: conditions of detention in prisons (improvement of conditions, emphasis on the re-education, rehabilitation and social reintegration of prisoners); controls (increase in number of visits to places of detention by authorized magistrates; authorization of prison visits by human rights associations); and the training of prison and police personnel.

Article 11

124. Algeria has no legislative provisions which impose custodial sentences simply because a person is unable to fulfil a contractual obligation, provided that the non-fulfilment was in good faith and not tainted with fraud or fraudulent acts constituting an offence punishable under the Penal Code. Article 1 of this Code states: "There can be no offence or punishment or security measure except as provided by law". In criminal cases, "The execution of sentences to fines, restitution, compensation and costs may be pursued by means of enforcement by committal" (Code of Penal Procedure (CPP), art. 599). Article 100 of this Code stipulates: "However, enforcement by committal may not be ordered or effected, in particular, in the case of a political offence, in respect of an offender aged under 18 years or over 65 years, or a person in debt to his spouse, ascendants, descendants, brothers, sisters, uncle, aunt, nephew of niece or a person related to the same degree". Article 601 states: "Enforcement by committal may not be

effected simultaneously against husband and wife, even for the recovery of sums relating to different convictions". Article 103 reads: "The execution of enforcement by committal shall be suspended for convicted prisoners who give evidence of their insolvency to the government procurator by producing either a certificate of indigence issued by the president of the Communal People's Assembly of their place of residence or a certificate of non-taxation issued by the tax collector of that place". In addition, the arrest of the person liable to enforcement by committal may not be effected until a payment order has remained unpaid for more than 10 days and until an application for imprisonment has been made by the prosecuting party" (art. 604).

125. In civil matters, the Code of Civil Procedure (Ordinance No. 66-154 of 8 June 1966) establishes, in articles 407 to 412, the conditions and procedures for execution of judicial decisions by means of enforcement by committal. Article 407 stipulates that "in cases involving commerce or loans, the execution of orders, judgements or decrees issued as res judicata and carrying a sentence of payment of a principal sum greater than 500 dinars may be pursued through enforcement by committal. However, such enforcement may not be effected until the means of execution provided for in this Code have been exhausted". Furthermore, only persons who prove effective domicile in Algeria may avail themselves of this procedure (art. 408). The plaintiff is required to apply to the presiding judge of the court of the place of execution (art. 410) within three years following the date on which the decision acquired the force of res judicata (art. 409). The judge may not rule on the application until it has been ascertained that the legal formalities relating to the other means of execution have been complied with (art. 410) and "may grant a debtor who is the victim of misfortune and has acted in good faith a time-limit within which to redeem his debt, except with regard to bills of exchange". This time-limit may be up to one year (art. 411). In addition, the above-mentioned provisions of the Code of Penal Procedure which are not incompatible with this provision are applicable.

126. From the foregoing, it should be noted that recourse to enforcement by committal is confined within limits such that in no circumstances may a person be imprisoned solely because he is unable to fulfil a contractual obligation. It may be imposed only on a person who has been lawfully convicted by a judicial decision that has acquired the force of res judicata, once all other means of execution have been exhausted. Suspension of such enforcement is accorded, even in criminal cases, to persons who prove their insolvency. In civil cases, apart from indigence, good faith may constitute a ground for a judge's decision to grant a debtor a time-limit within which to redeem his debt.

Article 12: Liberty of movement and residence; right to leave any country, including one's own; right to enter one's own country

127. Article 41 of the Algerian Constitution provides that "Any citizen in possession of his civil and political rights shall be entitled to choose his place of residence freely and to travel within the national territory. He is guaranteed the right to enter and leave the national territory". Positive Algerian law does not impose limitations on the right of citizens to travel freely throughout the national territory, or on their right freely to choose their place of residence and to leave and enter their country. The

formalities for leaving the national territory comprise only the normal Customs and frontier police controls and possession of a travel document in proper form (valid passport).

128. In criminal cases, offences may carry, in addition to the principal penalties, complementary penalties, including restricted residence or local expulsion. Retricted residence is defined by article 11 of the Penal Code as consisting of "the obligation imposed on a convicted prisoner to remain in a territorial district specified in the verdict. The duration of [restricted residence] may not be greater than five years. The residence obligation takes effect as from the date of expiry of the principal penalty or release of the convicted prisoner. The conviction is notified to the Ministry of the Interior, which may issue temporary authorizations for travel within the national territory". In accordance with article 12 of the Penal Code, local expulsion consists in "forbidding a convicted prisoner to visit certain places. Its duration may not be greater than 5 years in the case of an ordinary offence or 10 years in the case of a serious offence, except where otherwise provided for by law". A local expulsion order must be notified to the prisoner.

129. The Algerian Government, anxious to guarantee the physical and moral security and dignity of its nationals abroad, has concluded with various Governments a number of agreements aimed at regulating the movement, employment and residence of Algerians abroad, on a mutually acceptable basis which ensures their protection and dignity. In no circumstances may an Algerian be arbitrarily deprived of the right to enter his own country.

Article 13: Aliens

130. Article 64 of the Constitution stipulates that "Any alien lawfully present in the national territory shall enjoy the protection of the law for the purposes of his person and his property". Article 65 provides that "No one may be extradited except on the basis of and pursuant to legislation on Extradition". Article 66 emphasizes that in no circumstances may a political refugee who has been lawfully accorded the right of asylum be handed over or extradited. An alien lawfully resident in Algeria may be expelled only in the legal circumstances provided for and with due respect for the rules established by the various international agreements and instruments to which Algeria has acceded. It will be recalled that Algeria is a party to several international conventions on refugees and stateless persons, including the Convention relating to the Status of Refugees, the Convention relating to the Status of Stateless Persons and the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

131. Article 5 of the Civil Code stipulates that "The police and security laws are binding on all persons resident within the national territory". The conditions of travel and residence of aliens are governed by Ordinance No. 66-211 of 21 July 1966 relating to the situation of aliens in Algeria, as supplemented by Ordinance No. 67-190 of 27 September 1967 and Ordinance No. 75-80 of 15 December 1975 relating to the enforcement of judicial decisions on local expulsion and restricted residence. These provisions are of a general nature and, as such, are valid for all aliens who have lawfully entered Algeria, without need for recourse to an agreement. In fact, Algeria

has concluded some 30 bilateral mutual judicial assistance agreements, with, inter alios, France, Tunisia, Egypt, Mauritania, Belgium, Bulgaria, Poland, Hungary, Romania, Czechoslovakia, Syria, USSR, Yugoslavia, Mali, United Arab Emirates, Niger, Libya, Turkey and Cuba.

132. An alien may be deported only pursuant to a decision taken in conformity with the above-mentioned Ordinance No. 66-211, article 20 of which stipulates that "the expulsion of an alien from the national territory shall be pronounced by an order of the Ministry of the Interior". Deportation may be effected if his presence in Algeria constitutes a threat to public order, if he has been the subject of a judicial decision which has become final and carries a penalty of imprisonment for a serious or ordinary offence, or if he has been refused a residence permit or has had such a permit withdrawn and has not left the national territory within 15 days following the date of notification of that action, has not had that period extended and cannot prove that his delay is attributable to force majeure. The deportation order must be notified to the person concerned: an alien who proves that he is unable to leave the national territory may, until such time as he is in a position to comply with the order, be compelled, by decree of the Ministry of the Interior, to reside in a place assigned to him (arts. 12, 20, 21 and 22 of the above-mentioned Ordinance).

133. Article 13 of the same Ordinance establishes the principle that "an alien may reside and travel freely within Algerian territory", subject to the obligation to produce on request by agents of the authorities the evidence or documents authorizing him to reside in Algeria, and to report his domicile or any change of domicile to the police station or mairie of his place of residence (arts. 14 and 15).

Article 14: Equality before the courts and right to justice

Article 14, paragraph 1

134. The principle of the equality of all before Algerian courts is established by the Constitution, article 28 of which provides that "Citizens are equal before the law, and there shall be no discrimination on grounds of birth, race, sex, opinion or any other personal or social condition or circumstance". Article 131 stipulates that "Justice is based on the principles of legality and equality. It is equal for all, accessible to all and is manifested in respect for the law". Article 135 provides that "Judicial decisions shall be substantitated and pronounced at a public hearing". Article 138 states that "Judges shall obey only the law" and article 142 recognizes the right of defence, which is guaranteed in criminal cases. The right of access to, and to defend one's case before, a competent, independent and impartial tribunal is provided for in Algerian legislation, in particular in articles 1 to 10 and 72 to 78 of the Code of Penal Procedure and articles 1 to 11 of the Code of Civil Procedure.

135. The question of the public nature of trials is governed by various provisions of the Code of Penal Procedure. Thus, article 285 stipulates that the proceedings of a criminal court shall be public unless such a trial would jeopardize public order or morals. In such a case, the court makes an appropriate declaration in a judgement rendered at a public hearing.

However, the presiding judge may forbid minors to attend the hearing. If in camera proceedings have been ordered, only the judgement on the merits may be pronounced at a public hearing. Judicial decisions must be substantiated and pronounced at a public hearing. Article 355 of the Code of Penal Procedure provides that "Any judgement shall be rendered at a public hearing, either at the hearing when the proceedings take place or at a subsequent date. In the latter case, the presiding judge shall inform the parties present of the day when judgement is to be pronounced. On that occasion, the presiding judge shall, again, note the presence or absence of the parties". When, by derogation from the principles of the public nature of the proceedings, the judge has ordered proceedings to be held in camera, the judgement must in any event be pronounced at a public hearing and must, under pain of nullity, indicate that in camera proceedings have been lifted for the purposes of the pronouncement of the judgement.

136. In civil cases, article 31 of the Code of Civil Procedure stipulates that hearings shall be public and that the judge shall keep order in court; article 38 provides that judgements shall be rendered at a public hearing, shall be substantiated and shall specifically indicate that they have been rendered at a public hearing.

137. Criminal cases involving minors are governed by specific rules for juvenile delinquency contained in book III of the Code of Penal Procedure (arts. 439 to 494). Under articles 447 and 450, every court comprises a juvenile section composed of the juvenile magistrate, the presiding judge and two co-magistrates. Article 461 stipulates that proceedings shall be held in camera, once the parties have been heard. The decision is also rendered in camera (art. 463) and every case is tried separately in the absence of all the other defendants (art. 468). The juvenile section reaches a decision after having heard the minor, the witnesses, the parents, the tutor or guardian, the government procurator and the defence counsel. It may, if the minor's interest so requires, dispense the minor from attending the hearing (art. 467). Furthermore, "The publication of the record of juvenile court proceedings in books or the press, on radio or film, or through any other medium is prohibited. The publication by the same means of any text or illustration concerning the identity or personality of juvenile offenders is also prohibited" (art. 477), under pain of criminal sanction. The judgement may be published but the minor's name may not be indicated, even by initials.

Article 14, paragraph 2

138. The principle that any person charged with a criminal offence shall be presumed innocent until proved guilty according to law is set forth in the Constitution, article 42 of which states: "Every person shall be presumed innocent until proved guilty by a regular court and with all the safeguards required by the law". These safeguards are spelt out in the Code of Penal Procedure.

Article 14, paragraph 3

139. Reference should be made to the introductory part of the report relating to the independence of the judiciary, the right of defence and judicial remedies. It should be emphasized that the minimum guarantees enunciated in article 14, paragraph 3, are all established in the Code of Penal Procedure.

140. Any person charged with a criminal offence has the right, in full equality, to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him. Reference should also be made to the observations on police custody, the conduct of examinations, the drafting of records of statements, the execution of judicial warrants and the guarantees which must accompany them. It should further be pointed out that, in accordance with article 109 of the Code of Penal Procedure, any judicial warrant (arrest warrant, detention warrant or combined arrest and detention warrant) must state the nature of the charge and the applicable legal provisions. Once the examination stage has been completed (this is mandatory in criminal cases), the examining magistrate issues, as appropriate, a dismissal order or orders the case to be referred to the court, transmitting the dossier with his committal order to the government procurator, who is required to forward it without delay to the registry of the trial court and summon the defendant for an early hearing before the court seized, complying with the time-limit for summonses (CPP, arts. 162 to 165). If the defendant is being held in pre-trial detention, the case must be heard within one month (new paragraph of art. 165 introduced by Act. No. 90/24 of 18 August 1990). The language used is Arabic, the official language of the country. A person charged with a criminal offence may, throughout the proceedings, be assisted by a third person apart from his counsel, in particular if he cannot read or write. By way of illustration, reference should be made to article 64 of the Code, which stipulates that "Searches, domiciliary visits and seizures of items of evidence may not be effected without the express consent of the person in whose home the operation is conducted. The consent shall be given by means of a handwritten statement by the person concerned or, if he is unable to write, he may avail himself of the assistance of a third person of his choice".

141. A person who is the subject of prosecution is entitled to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing (see above, observations on the right of defence, in particular paras. 32 and 33 of this report). Every person has the right to be tried without undue delay (see above, police custody regime, maximum period of pre-trial detention, examination stage and obligation on the government procurator, in response to an order committing the case to a court, to summon the defendant for an early hearing, with due observance of the time-limit for summonses, the said time-limit not to exceed one month in the case of pre-trial detention). In addition, article 279 states that "Any case which is ready for trial shall be referred to the court at its following session".

142. Any person charged with a criminal offence has the right to be tried in his presence and to defend himself in person or through legal assistance of his own choosing, to be informed, if he does not have legal assistance, of this right, and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means. Article 142 of the Constitution stipulates that "The right of defence is recognized. In criminal matters, it is guaranteed". This guarantee covers all stages of the proceedings, as from the first appearance of the defendant. At the examination stage, the magistrate notifies the defendant that he is free not to make any statement, informs him of his right to choose a counsel and, if no such choice is made, appoints a counsel ex officio if the defendant so requests (CPP, art. 100).

If incommunicado detention is ordered by the judge, the ban on contact may in no circumstances apply to the defendant's counsel (art. 102). Article 272 of the Code stipulates that, during the preparatory stage of sessions of a criminal court, and after an order by the indictment division committing the accused for trial by the court, the accused must be able to communicate freely with his counsel, who may have access to all evidence in the dossier, which must be made available to counsel not less than five days before the trial. During the trial stage proper, the presence of the accused and his defence counsel is mandatory. Article 292 stipulates that "The presence of a defence counsel to assist the accused at the hearing is mandatory. If necessary, a defence counsel shall be appointed ex officio by the presiding judge". Article 293 provides that the accused shall appear in court free of any bond and accompanied only by his guards. Once the introductory proceedings have been completed, the claimant for criminal indemnification or his counsel is heard. The government procurator makes his submissions, and the counsel and the accused make their pleas. Both the claimant and the government procurator are permitted to reply, but the accused and his counsel always have the final word (art. 304).

143. Any person prosecuted for a criminal offence has the right to examine or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him. This right is recognized even during the pre-trial stage. The examining magistrate summons before him any person whose evidence he considers relevant; this person is required to comply with the summons and give evidence. However, persons concerning whom there are serious and consistent presumptions of guilt may not be heard as witnesses - in order to avoid jeopardizing the rights of defence. The hearing of witnesses before examining magistrates is governed by articles 89 to 99 of the Code of Penal Procedure. Articles 220 to 234 of this Code establish the conditions and procedures for hearing witnesses before trial courts (joint provisions). In addition, articles 273 and 274 establish the obligation on the government procurator and the claimant for criminal indemnification, on the one hand, and the accused, on the other, to notify the opposing party at least three days before the start of the trial of the persons they wish to summon as witnesses. Article 233 provides that the presiding judge, after each statement, shall ask the witness such questions as he deems necessary and, where appropriate, those which he is requested to ask by the parties; the government procurator may put questions directly to the witnesses. Article 288 stipulates that the accused or his counsel may put questions to the witnesses through the presiding judge. A claimant for criminal indemnification or his counsel may put questions in the same manner. The government procurator may examine witnesses directly. The examination of prosecution witnesses and defence witnesses is conducted in the same conditions. The summoning of witnesses may be required or ordered if necessary by the police.

144. Any person charged with a criminal offence has the right to the free assistance of an interpreter if he cannot understand or speak the language used in court. Various articles of the Code of Penal Procedure contain provisions pursuant to this right, which is also recognized and accorded to deaf mutes (CPP, arts. 91, 92, 94, 95, 108, 165 and 298) at all stages of the proceedings. Thus, article 91 provides that "The examining magistrate may call an interpreter, who may not be his registrar or a witness. If he is not

sworn, the interpreter shall take the oath in the following terms: 'I hereby swear and promise to interpret faithfully the words spoken by persons expressing themselves in different languages or dialects'." Article 92 stipulates that, if a witness is deaf or dumb, the questions and answers shall be given in writing. If the witness is illiterate, the examining magistrate is required to appoint ex officio an interpreter capable of talking with him. The court record must mention the surname, first name, age, occupation, domicile and oath of the interpreter, who has to sign it. Article 108 adds that the records of statements and confrontation must be prepared in the form provided for in articles 94 and 95, and, if an interpreter is used, the provisions of articles 91 and 92 are applicable. Articles 94 and 95 stipulate that every page of the records must also be signed by the interpreter if he has been concerned, and that he must endorse any erasures or references. Article 298 makes the presiding judge of the criminal court responsible for ensuring that an interpreter is present and available if needed.

145. A person is entitled not to be compelled to testify against himself or to confess guilt. Article 89 of the Code of Penal Procedure provides that any person summoned as a witness is required to testify, but at the same time specifies: "However, a person mentioned by name in a complaint accompanied by the bringing of criminal indemnification proceedings may refuse to testify. The examining magistrate shall warn him to that effect after informing him of the complaint. Reference to this matter shall be made in the record. In the event of a refusal to testify, the examining magistrate may hear him only as a defendant".

146. In Algerian law, since a confession is a statement by means of which a person acknowledges as true an action which is liable to have unfavourable legal consequences for him, he must be aware that his statement is liable to constitute evidence against him. For this reason, when it is established before the court that a statement has been made under duress, this statement may not be used as evidence in the course of any proceedings either against the person in question or against any other person. Article 213 of the Code of Penal Procedure stipulates: "Confession, like any element of proof, shall be left to the complete discretion of the judge". Article 215 goes as far as to state: "Except as otherwise provided for by law, the records and reports recording serious and ordinary offences shall be valid only as simple items of information". The question whether a statement constitutes a confession is resolved by the court. An Algerian judge may base his decision only on evidence adduced in the course of the trial and discussed before him in adversary proceedings (CPP, art. 212, second paragraph).

Article 14, paragraph 4

147. The procedure applicable to minors is governed by the specific provisions of book III of the Code of Penal Procedure (rules on juvenile delinquents, arts. 442 to 494). Their objective is to protect children and they make allowance for the desirability of re-educating them. Article 442 sets the age of majority in criminal proceedings at 18 years. Article 444 states the principle that "In the case of a serious or ordinary offence, a child aged under 18 years may be subjected only to one or more of the precautionary or re-education measures listed below:

(a) Restoration to his parents, legal guardian or person worthy of trust;

(b) Non-custodial supervision;

(c) Placement in an authorized institution or public or private education or vocational training establishment;

(d) Placement in an authorized medical or medical-pedagogical establishment;

(e) Placement by the public service responsible for assistance; or

(f) Placement in a boarding school suitable for juvenile delinquents of school age."

A minor aged over 13 may, however, also be placed in a public supervised-education or corrective-education institution. In all cases the above measures must be ordered for a specified time, which may not extend beyond the date upon which the minor reaches the age of 21.

148. Every court has a juvenile section comprising a juvenile magistrate, who is its president, and two advisers. This section has jurisdiction over offences committed by minors and is governed by the specific rules of procedure established in book III of the Code. Cases are heard and decisions rendered in camera and the minor may be excused from appearing in person if his interests so require. Sentences handed down by the juvenile section are subject to appeal in the juvenile division attached to each higher court. The right to defence is guaranteed, as is the right to initiate criminal indemnification action against the minor in the person of his legal representative. Non-custodial supervision is subject to specific arrangements depending on the age of the delinquent. Precautionary and protective measures ordered by virtue of article 444 may be modified or reviewed at any time by the juvenile magistrate.

149. Articles 493 and 494 define measures to protect child victims of offences. A child aged under 16 who is the victim of an offence committed by his parents, tutor or guardian is placed by court order with an individual or in an establishment, or entrusted to the public service responsible for assistance. The government procurator's office may also, when an offender is convicted of an offence against a minor, bring the matter before the juvenile section, which will order any necessary protective measures.

Article 14, paragraph 5

150. Any person found guilty of an offence is entitled to have the judgement and conviction reviewed by a higher court in accordance with the Code of Penal Procedure, which maintains the principle of dual-instance jurisdiction. An appeal for judicial review may be lodged against verdicts of the criminal courts.

151. Article 416 specifies the kinds of decision which are subject to appeal: judgements handed down in connection with ordinary offences; judgements handed down in connection with minor offences when accompanied by a sentence of

imprisonment or a fine exceeding 100 dinars, or when the sentence incurred exceeds five days' imprisonment. An appeal may be lodged by the accused; the person or persons liable at civil law; the government procurator; the procurator-general; the public authorities when they are exercising the public right of action; and the parties to any criminal indemnity action. When civil damages have been awarded, appeal may be lodged by the accused and the person or persons liable at civil law. Appeal may be lodged by the parties to a criminal indemnity action in respect of civil interests only (art. 417).

152. Article 495 states: "The following may be challenged by lodging an appeal for judicial review before the Supreme Court, which may refer them to the criminal court:

(a) Decisions of the chambre d'accusation other than decisions on pre-trial detention and referral to the criminal courts;

(b) Judgements handed down by the courts without right of appeal or after a separate ruling as to competence."

In criminal cases, article 313 also states that "after delivering the judgement, the president of the court shall notify the convicted person that he has eight clear days to lodge an appeal for judicial review". An appeal for judicial review may be lodged by the government procurator, the convicted offender, the person or persons liable at civil law or the parties to any criminal indemnity action.

Article 14, paragraph 6

153. "Judicial errors shall be made good by the State", says the Constitution in article 46. The victim of a judicial error is entitled to redress and appropriate remedies are available for this purpose. The Code of Penal Procedure states that any person convicted of a serious or ordinary offence is entitled to seek rehabilitation, which expunges for the future the effects of a fair conviction and the concomitant losses of rights. Such rehabilitation is automatic under the conditions laid down in articles 677 and 678, or can be granted by decision of the chambre d'accusation or the Supreme Court according to circumstances and the procedures laid down in articles 679 to 693 of the Code.

154. Article 530 of the Code provides for appeal in the interests of the law. On instructions from the Minister of Justice, the procurator-general may denounce before the Supreme Court judicial acts, judgements or decisions at variance with the law against which no party has appealed. Those acts, verdicts and decisions may be set aside. This has no effect on civil damages but will benefit any person convicted under the provisions concerned.

155. Lastly, the Code deals with applications for review in articles 531, 531 bis and 531 bis (1), the latter two having been incorporated into the Code by Act No. 86/05, passed by the Assembly on 4 March 1986, to allow any convicted person later found innocent by the Supreme Court or his rightful claimants to seek damages for the moral and physical injury caused by the conviction. It should be stressed that an application for redress may be

submitted at any stage of the proceedings (for the text of the aforementioned Act, see para. 118 of this report). Article 531, on applications for review, reads as follows:

> "Applications for review may be lodged only against judgements and decisions having the force of res judicata, convicting a person or persons of a serious or ordinary offence.
>
> They must be supported by:
>
> (1) The production, after conviction for homicide, of evidence giving reason to believe that the supposed victim of the homicide is still alive;
>
> (2) The conviction for false witness against the convicted person of a witness whose testimony helped to secure his conviction;
>
> (3) The conviction for the same offence of another individual when the two convictions are mutually inconsistent; or
>
> (4) The discovery of a new fact or the presentation of evidence, of which the court was unaware when it convicted him, making it appear probable that the convicted person is innocent.
>
> In the first three instances, the Supreme Court shall be seized directly of the matter by the Minister of Justice or by the convicted person or, where he is unable to do so, by his legal representative or, if the condemned person has died or his whereabouts are unknown, by his spouse, descendants or ascendants.
>
> In the fourth instance the Supreme Court may only be seized of the matter by the procurator general of the court, acting at the request of the Minister of Justice.
>
> In reviewing a case, the Court shall rule on the substance, the reporting judge furnishing it with all necessary material, by rogatory commission where necessary.
>
> If an application is accepted, the Court shall quash without appeal the convictions it finds unjustified" (this last paragraph was added by Act No. 86/05).

Article 14, paragraph 7

156. No one may be prosecuted or punished for a breach of the law of which he has already been acquitted or convicted in final judgement, in accordance with the Penal Code and Code of Penal Procedure. The Constitution upholds the principle that no one can be prosecuted, arrested or detained except as determined by law (art. 44), and that criminal penalties must be consistent with the principles of legality and individuality (art. 133).

157. The Code of Civil Procedure specifies in article 6 that "prosecution for execution of sentence lapses upon the death of the accused, expiry of the statutory period of limitations, amnesty, repeal of the penal law or setting aside of the res judicata". The Code of Penal Procedure states in article 175 that: "An accused person in respect of whom the examining magistrate has issued an order dismissing a case may not be investigated again for the same matter unless new charges arise"; it also defines what may constitute new charges. Reopening an investigation is a matter for the government procurator's office. When the chambre d'accusation decides that the acts in question do not constitute an offence or that there are not sufficient charges against the accused, or if the perpetrator is unknown, it dismisses the case. Any suspects in pre-trial detention are set free, unless they are also being detained for other reasons (art. 195).

158. With regard to the criminal courts, article 311 of the Code states that: "If the accused is absolved or acquitted he shall immediately be set free unless detained for another reason ... No person legally acquitted may be rearrested or charged again in connection with the same matter, even if differently described".

159. The principle laid down in article 14, paragraph 7, of the Covenant also benefits foreigners. Article 589 of the Code of Penal Procedure stipulates that: "No prosecution for a serious or ordinary offence committed in Algeria may be conducted against a foreigner who provides proof that he has been definitively tried abroad for that offence and, if convicted, that his sentence has been served or is unenforceable or that he has been pardoned". The Code also establishes conditions relating to statutory limitations on penalties in articles 612 to 617.

Article 15: Non-retroactivity of penal legislation

160. The non-retroactivity of penal legislation is a constitutional principle. Under Algerian law, no petty, minor, ordinary or serious offence can be prosecuted except as determined by law, or punished with penalties not laid down by law before it was committed. A person may be found guilty only by virtue of a law duly promulgated before the act with which he is charged took place (art. 43 of the Constitution). Furthermore, new legislation does not affect rights acquired under the previous legislation, or revive any right which has actually disappeared under the previous legislation. Article 1 of the Penal Code states that "In the absence of law there can be no breach of the law, nor any penalties or security measures". Article 2 says that "Penal legislation shall not be retroactive except where it is less rigorous", allowing the offender to benefit from lighter penalties under the new law.

Article 16: Right to legal personality

161. The right to recognition of one's legal personality in all circumstances is recognized and protected by the Algerian Constitution, specifically articles 30, 33, 34 and 37. The Algerian Civil Code contains a number of provisions recognizing legal personality. The Civil Registry Act lays down the procedure for entering information in the civil registers kept in each commune. Besides registers of births and deaths and related declarations such as marriage and divorce, it governs the taking and changing of a name.

Article 25 of the Civil Code states that personality begins upon the birth of a living child and ends at death; paragraph 2 of the article adds that the child enjoys civil rights from conception provided it is born alive. Birth and death are established by the civil registers. In the absence of such evidence or if the information they contain is imprecise, proof may be furnished by any other means in the forms provided for in the Civil Registry Act (art. 26 of the Civil Code). Article 28 states that everyone must have a surname and one or more given names; article 40, that "any adult person in possession of his mental faculties and not subject to a disqualification is fully able to exercise his civil rights. Civil majority is attained at the age of 19 years". The Civil Code also stipulates that no one can renounce his capacity or change the conditions under which it is exercised (art. 45); that no one can renounce his personal freedom (art. 46); that anyone subjected to unlawful encroachment upon the rights inherent in his personality may seek the cessation of such encroachment and redress for any injury resulting therefrom (art. 47); and that anyone whose right to the use of a surname is unjustly impugned or whose name has been improperly borne by another may require those responsible to cease and desist and seek redress for the injury (art. 48). Cases of incapacity and the conditions under which people may be stripped of certain rights are strictly governed by law.

162. The Penal Code makes it a punishable offence to hinder the identification of an infant, rendering the culprit liable to up to 10 years' imprisonment (art. 321), or to usurp or improperly assume titles and names (arts. 243 to 250). Article 247 deals with the improper attribution of a patronymic name other than one's own; article 248, with the use of false names or false identities; article 249, with usurpation of the name of a third party. Article 250 states that in all the cases provided for in articles 243 to 249, the Court hearing the case may, at the expense of the guilty party, order the decision to be announced in the newspapers or publicly displayed and corrections to be made to the authentic deeds or civil registration documents in which the title has been improperly entered or altered.

163. It should also be mentioned that Decree No. 88-131 of 4 July 1988 deals with relations between the administration and the public. It imposes on "institutions, public authorities, public bodies and their employees the duty to protect the liberties and rights acknowledged by the Constitution and legislation in force" (art. 2). Article 3 emphasizes that "the Administration is required to respect the human person and uphold human dignity. Its relations with the public shall in all circumstances be marked by civility and endued with courtesy". Article 5 states that "any abuse of authority shall be subject to reparation in accordance with current legislation, without prejudice to any penal, civil and disciplinary sanctions to which the party responsible may be liable". Public servants must perform their duties in accordance with current legislation; they may not on any pretext refuse to perform a service or issue an administrative document to which the person administered is normally entitled, refuse to provide information, cause unwarranted delay in the issuance of administrative acts and documents, or demand acts or documents not required by the legislation or regulations in force (art. 30). Besides discretionary remedies, the person administered may use all legal avenues to contest decisions by the administration, including action to seek redress for any injury suffered (art. 39).

Article 17: Protection against arbitrary or illegal interference

164. This right is protected under article 37 of the Algerian Constitution: "The privacy and honour of the citizen are inviolable and shall be protected by law. The secrecy of private correspondence and communication in all their forms is guaranteed". The Penal Code devotes an entire section to damage to honour or reputation and breach of secrecy (defamation, art. 296; insult, arts. 297, 298, 298 bis and 299, including insults against one or more persons belonging to a specific ethnic or philosophical group or religion; slander, art. 300; breach of professional secrecy, arts. 301 and 302).

165. Breaches of medical confidentiality are punishable under article 301 of the Penal Code. Medical confidentiality is also safeguarded by various provisions of the Health Protection and Promotion Act (No. 85/05), as amended by Act No. 90-17 of 31 July 1990. The amendments to the Act strengthened the safeguards for medical confidentiality. The new article 206 (1) reads as follows: "Respect for the dignity of the patient and protection of his personality are guaranteed by the professional confidentiality to which all doctors, surgeons, dentists and pharmacists are bound". The obligation to maintain professional confidentiality is general and absolute in the absence of permission from the patient or a legal waiver, in accordance with article 206 (2). The patient, however, is free to discuss anything to do with his health. Article 206 (3) requires practitioners to report ill-treatment of minors and persons in detention; article 206 (4) deals with the limits and conditions to which practitioners summoned before the courts or providing expert evidence are subject. A practitioner is absolved of professional confidentiality only "vis à vis the Court in connection with the specific subject of its inquiry ... He may reveal only those matters which are strictly relevant to the questions put to him, and must remain silent about anything he may have learnt during the performance of his duties, or be guilty of a breach of professional confidentiality". Article 206 (5) stipulates that a practitioner "summoned to give evidence shall not disclose matters covered by professional confidentiality unless the patient authorizes him to do so". Article 207 (2) makes it incumbent on a practitioner "entrusted with carrying out a check or inspection to notify the persons he proposes to examine of the capacity in which he is acting".

166. The secrecy and inviolability of correspondence are guaranteed by article 37, paragraph 2, of the Constitution: "The secrecy of private correspondence and communication in all their forms is guaranteed". Furthermore, article 137 of the Penal Code stipulates that: "Any public servant or representative of the State, employee or official of the postal service who opens, diverts or destroys letters in the mails or abets such opening, diversion or destruction is liable to imprisonment for three months to five years and a fine of 500 to 1,000 dinars. The same penalty shall apply to any employee or official of the telegraph service who diverts or destroys a telegram or divulges the contents thereof. The offender shall furthermore be barred from any public office or employment for 5 to 10 years".

167. The home is inviolable. Under article 38 of the Constitution, "The State shall guarantee inviolability of the home. No search may take place save in virtue of the law and in accordance therewith. No search may be made save by written order of the competent judicial authority". Searches and inquiries

are conducted subject to the procedures and conditions laid down in the Code of Penal Procedure (arts. 44 to 50, 64 and 65). Thus searches, domiciliary visits and seizures of evidence may not take place without the express consent of the person in whose home they occur given in a written statement by the hand of the person concerned who, if he cannot write, may obtain the assistance of a third person of his choice (art. 64, amended, of the Code of Penal Procedure). Searches may be conducted only upon written authorization of the government procurator or examining magistrate (art. 45). Some of these safeguards have the effect of avoiding evidence improperly obtained (art. 48). Article 122 states that "An officer may not enter a citizen's home in execution of an arrest warrant before 5 a.m. or after 8 p.m." The Penal Code provides, in article 135, that: "Any administrative or judicial official, any police officer or any commander or member of the security forces who, acting in that capacity, enters a citizen's home against that citizen's wish, except as provided and subject to the formalities prescribed by law, is liable to imprisonment for two months to one year and a fine of 500 to 3,000 dinars, without prejudice to the application of article 107". Article 107 makes arbitrary or freedom-infringing acts committed or ordered by a public servant punishable by 5 to 10 years' rigorous imprisonment.

168. Decree No. 88/131 on relations between the Administration and the public makes it the duty of institutions, public authorities and public bodies and their employees to protect the rights of citizens, respect the human person and uphold human dignity, etc. (see above). Furthermore, it strictly regulates the procedure by which an individual may be summoned to appear before the authorities (arts. 15 to 20), emphasizing the exceptional nature of such a summons, which may not be made outside working hours or at night.

169. The Information Act (No. 90-07 of 3 April 1990) states that the right to information may be exercised freely with due regard for the dignity of the individual (art. 3), and that information must not infringe a citizen's constitutional rights or liberties (art. 36). It governs the rights of correction and reply, and provides that "Any person mentioned in a report containing erroneous information or malicious assertions apt to cause moral or material injury" may exercise his right to reply and/or initiate proceedings against the editor of the organ and the journalist, who are jointly responsible (art. 45).

Article 18: Freedom of thought, conscience and religion

170. Freedom of thought, conscience and religion is guaranteed by Algerian law. Although Islam is the State religion (art. 2 of the Constitution), the Constitution establishes, in article 35, that freedom of conscience and freedom of opinion are inviolable. The freedom of worship and religion of communities of other faiths living in Algeria is thus respected and protected by the Ministry of Religious Affairs. The archdiocese of Algiers covers several dioceses, including Algiers (seven churches), Laghouat (one church), Oran (four churches) and Constantine (two churches). The Jewish consistory is based in Algiers and there are two synagogues, one in Blida, the other in Algiers.

171. The Penal Code (art. 298 bis) makes insulting one or more persons belonging to a specific ethnic or philosophical group or religion a punishable offence. The Information Act provides, in article 77, that anyone who, in writing or by sounds, images, drawings or any other direct or indirect means, offends against Islam and the other celestial religions is liable to criminal penalties (six months' to three years' imprisonment and/or a fine).

Article 19: Freedom of opinion, expression and information

172. Freedom of opinion is inviolable by virtue of article 35 of the Constitution, which states that "Freedom of conscience and freedom of opinion are inviolable". Article 36 of the Constitution guarantees to citizens freedom of intellectual, artistic and scientific creation. Copyright is also guaranteed. Freedom of expression is guaranteed by article 39 of the Constitution, which provides that the freedoms of expression, association and assembly are guaranteed to the citizen.

173. Information is governed by Act No. 90-07 of 3 April 1990, which amended the Information Code contained in Act No. 82-01 of 6 February 1982 in order to give full effect to the constitutional provisions concerning matters such as the multi-party system, the effective participation of everyone in political, economic, social and cultural life, and freedom of conscience, opinion, intellectual, artistic and scientific creation, expression, association and assembly. The new Act stipulates that the right to information shall be exercised freely, having due respect for the dignity of the human person, through any form of mass communication, including writing, radio, sound systems and television; newspapers, periodicals and information organs may belong to both the public sector and to political associations and natural or legal persons in Algerian law (arts. 3 and 11).

174. The right to information is defined by article 2 as follows:

> "The right to information shall consist of the citizen's right to be informed fully and objectively of facts and opinions of interest to society at the national and international levels, and of the right to participate in information through the exercise of the fundamental freedoms of thought, opinion and expression in accordance with articles 35, 36, 39 and 40 of the Constitution".

This definition of information covers both facets of the right to information: the right to inform and the right to be informed. By making them indissoluble, the legislature has enlarged the scope of this fundamental freedom. The right is secured as provided for in article 4 by the newspapers, periodicals and information organs of the public sector and by the newspapers, periodicals and organs belonging to, or created by, political associations. It is exercised by means of any form of mass communication, including writing, radio, sound systems and television.

175. The limits on the exercise of this right are those laid down, in particular, by articles 3 and 40 of the Act. Article 3 stipulates that the right to information shall be exercised freely with due respect for the dignity of the human person and the requirements of foreign policy and

national defence. Article 40 states that "In the exercise of his profession, a professional journalist shall ensure full respect for professional and general ethics. In particular, he shall:

Respect the constitutional rights and individual freedoms of citizens;

Make every effort to provide full and objective information;

Rectify any information that proves to be inaccurate;

Comment on facts and events honestly and objectively;

Refrain from any direct or indirect advocacy of racism, intolerance and violence;

Refrain from plagiarism, slander, defamation and acting as an informer;

Refrain from using the moral prestige attaching to his profession for personal or material purposes.

A journalist has the right to refuse to accept any editorial directive originating from any source other than the management of the publication for which he works".

The Act also regulates the right of reply and the right to rectification (see above).

176. The publication of any periodical is free and is subject, for the purposes of registration and verification of accuracy, only to an advance declaration made 30 days before the appearance of the first number (art. 14). National or foreign periodicals and specialized publications must not contain any illustration, report, information or insertion contrary to human rights or advocate racism; in addition, they must not contain any advertisement or announcement likely to promote violence or crime (art. 26). Institutions, agencies or approved associations responsible for the promotion of human rights and the protection of children may exercise the rights recognized to parties bringing criminal indemnity actions (art. 27). The journalist is protected in the exercise of his profession. If a professional journalist is the victim of violence or aggression, attempted corruption and intimidation or blatant pressure in the performance of his duties, the employer must refer the matter to the competent court and become a party to a criminal indemnity action. The right of access to sources of information is recognized for professional journalists (art. 35). It does not, however, authorize a journalist to divulge information likely to violate the constitutional rights and freedoms of the citizen (art. 36). Thus a person who directly or indirectly advocates, through any medium, acts categorized as serious or ordinary offences is liable to one to five years' imprisonment and a fine (art. 96). Since the entry into force of the new Information Act, the national press has been enriched by a large number of daily and periodical publications, some of which have chosen to be independent while others reflect the views of particular political groups.

Article 20: The prohibition of propaganda for war and of advocacy of hatred

177. Pursuant to article 25 of the Constitution, "Algeria shall refrain from resorting to war for the purpose of violating the legitimate sovereignty and freedom of other peoples. It shall endeavour to settle international disputes by peaceful means". The oath sworn by the President of the Republic (art. 73 of the Constitution) imposes on him an express obligation, inter alia, to do everything he can to achieve the great ideals of justice, freedom and peace in the world.

178. Algeria does not tolerate any propaganda for war; the advocacy of national, racial or religious hatred is prohibited and punished. As has already been seen, injurious behaviour and defamation are punishable under the Penal Code, which imposes penalties for any defamation against a person or an ethnic, philosophical or religious group when it is designed to stir up hatred among citizens or inhabitants (art. 298, para. 2). In the case of the provisions contained in the Information Act, reference should be made to the comments on article 19. It should also be pointed out that the Associations Act and the Political Associations Act prohibit associations from engaging in activities likely to violate human rights or to promote intolerance, racism and incitement to violence. Thus article 3, paragraph 8, of the Political Associations Act (No. 89-11 of 5 July 1989) stipulates that associations must, in their programmes and activities, proscribe intolerance, fanaticism, racism and incitement and/or recourse to violence in any of its forms. Article 5 states that no association may put forward, as the basis for its establishment and activities, the pursuit of objectives involving sectarian and regionalist practices, feudalism or nepotism.

Article 21: Right of peaceful assembly

179. The right of peaceful assembly is recognized in Algeria pursuant to article 39 of the Constitution, which reads "The freedoms of expression, association and assembly are guaranteed to the citizen". The arrangements for its exercise are set forth in articles 2 to 20 of the Public Meetings and Demonstrations Act (No. 89-28 of 31 December 1989). The text of the Act indicates that Algerian legislation has established a flexible procedure for the exercise of this right, for which the only requirement is that notice must be given in advance (three days for a meeting, five days for a demonstration). Article 3 of the Act establishes the principle that public meetings shall be free. The restrictions imposed by legislation are set forth in the same Act and relate to measures to promote security and maintain order and measures necessary to secure respect for the law and for the constitutional rights of citizens and the preservation of morality.

Article 22: Freedom of association

180. Everyone has the right to associate freely with others, including the right to form and join trade unions for the protection of his interests. Article 53 of the Constitution recognizes trade union rights for all citizens; article 39 guarantees freedom of association. Furthermore, article 40 states that the right to establish political associations is recognized. This right may not, however, be claimed for the purpose of encroaching upon fundamental freedoms, national unity, the territorial integrity or independence of the

country, or the sovereignty of the people. The founding of associations used to be subject to the conditions set forth in Ordinance No. 71-79 of 3 December 1971 and to prior approval by the Ministry of the Interior, but on 21 July 1987 this Ordinance was replaced by Act No. 87-15, supplemented by implementing decree No. 88-16 of 2 February 1988. The latter texts laid down the framework for exercising freedom of association by providing greater flexibility in the conditions and arrangements for the founding of associations. For example, the prior approval procedure was abolished for purely local associations; it was however, retained for any association having or intending to have nationwide influence and for any association whose objectives or aspirations fell within a field of activity that could be undertaken by a public service. Although approval was granted very liberally, practice showed that such a procedure could give rise to delays and ponderous formalities incompatible with the full exercise of the right to freedom of association affirmed by the Constitution. So a new Associations Act (No. 90-31 of 4 December 1990) was approved by the National People's Assembly; it takes care of that aspect of the problem and consequently abolishes the prior approval required under the old legislation.

181. From now on the arrangements for constituting, organizing and operating associations are regulated and determined by Act No. 90-31, the main provisions of which are as follows:

(a) An association is defined as an agreement governed by the laws currently in force whereby natural or legal persons join together on a contractual basis for a non-profit-making purpose. To this end they pool, for a specified or unspecified period, their knowledge and resources in order to promote activities of a professional, social, scientific, religious, educational, cultural, sporting or other nature. The purpose of the association and the name to be given to it must be accurately stated (art. 2).

(b) Any person of full age may found, administer or direct an association if he is of Algerian nationality, if he is in possession of his civil and civic rights, and if he has not been engaged in conduct contrary to the interests of the national liberation struggle (art. 4).

(c) Any association founded in pursuit of an objective contrary to the nation's institutions, to public order, to morality or to current legislation and regulations or whose founding members do not fulfil the conditions set forth in article 4 shall be of no legal effect (art. 5).

(d) Associations are to be constituted freely (art. 6) and are considered to be duly constituted after a notice of constitution has been filed by the founder members with the wali (prefect) of the wilaya (prefecture) where the association has its head office in the case of local associations, and with the Minister of the Interior in the case of national associations, and after a certificate of registration has been issued within a maximum period of 60 days and the formalities concerning publicity have been completed in at least one daily newspaper having a nationwide circulation (arts. 7 and 10). Prior approval is therefore abolished. Furthermore, if the competent authority considers the constitution of an association to be illegal, it must, no later than eight days before the expiry of the 60 days required for the issue of a certificate of registration, refer the matter to the administrative division

of the court having territorial jurisdiction, which must decide the case within 30 days following the date of referral (art. 8). The association is thereby protected against the danger of an arbitrary refusal to issue the certificate of registration, in so far as, if the matter is not referred to the court, under article 8 the association will be considered as being duly constituted upon expiry of the 60-day period.

(e) Associations are endowed with legal status and civil capacity and may, inter alia, go to law, enter into contracts, acquire property for the conduct of their activities, and receive donations and legacies; they may publish and circulate bulletins, magazines and other information papers in keeping with their purpose; national associations may also join international associations after obtaining the agreement of the Minister of the Interior (arts. 16, 19, 91 and 126).

(f) All natural and legal persons are forbidden to interfere in the functioning of an association (art. 15). An association must, for its part, regularly provide the appropriate public authority with information relating to changes in its statutes, its governing bodies, its membership and the sources of its funds (arts. 17 and 18).

(g) Except in cases of voluntary dissolution, an association may be suspended or dissolved only through the courts at the request of the public authority or on a complaint lodged by a third party (arts. 32 to 38).

(h) Special arrangements are made for foreign associations (arts. 39 to 44). A foreign association is deemed to be any association which has its headquarters abroad or is managed wholly or partly by foreigners (art. 39). The establishment of such an association is still subject to prior approval by the Minister of the Interior (art. 40). Only persons duly entitled to be in the country may found or join a foreign association (art. 41). Approval may be suspended or withdrawn by the Minister of the Interior if the association's activities deviate from what is laid down in its statutes or are prejudicial to the Nation's institutions, its integrity or values, public order or morality (art. 42).

182. In Algeria, there are more than 28,500 local and national associations. Their activities cover all sectors of economic, social, cultural, religious, scientific, technical and professional life. In addition to the large number of professional associations, associations are mainly to be found in the following areas: health protection; maladjusted children; handicapped persons; nature; the environment; archaeological sites; the promotion of sports and leisure activities; music; drama; the cinema; the promotion of charity, particularly for the benefit of abandoned children; the promotion of the national language and other languages; and the defence of women's rights, children's rights and human rights in general.

183. Political associations are governed by Act No. 89-11 of 5 July 1989, promulgated in order to give effect to article 40 of the Constitution, which provided for a multi-party system. The main provisions of the Act are as follows:

Art. 2. The purpose of a political association, under the provisions of article 40 of the Constitution, is to serve as a rallying-point for Algerian citizens who, grouped around a political programme for a non-profit-making purpose, work together with a view to participating in political life by democratic and peaceful means.

Art. 3. Any political association shall, through its objectives, help to:

- Safeguard and strengthen the Nation's independence, territorial integrity and unity;
- Strengthen the sovereignty of the people and respect for its freely made choices;
- Protect the republican form of government and the fundamental freedoms of the citizen;
- Respect democratic organization;
- Protect the national economy against any form of embezzlement, misappropriation, monopolization or illegal confiscation.

In addition, the association shall, in its programme and activities, proscribe intolerance, fanaticism, racism and incitement and/or recourse to violence in all its forms.

Art. 5. No political association may put forward, as the basis for its establishment and activities, objectives involving:

- Sectarian and regionalist practices, feudalism and nepotism;
- The establishment of relationships of exploitation and dependency;
- Behaviour contrary to Islamic morals and the values of the Revolution of 1 November 1954.

In this context a political association may also not put forward, as the basis for its establishment or activities, exclusively confessional, linguistic or regionalist, considerations, membership of a particular sex or race, or a specific professional status.

Art. 6. Political associations shall be established and operate in strict compliance with the Constitution and the laws in force. In this connection, political associations are not allowed to engage in any violation of security or public order or of the rights and freedoms of others. They are not allowed to use any of their assets for the establishment of military or paramilitary organizations.

Art. 9. Membership shall be open to any Algerian having reached voting age, except for members of the Constitutional Council, judges, members of the armed forces and officers of the security services.

Art. 10. A political association shall be organized on the basis of democratic principles.

For an association to be established, notice of its constitution shall be given by depositing an application and the statutes with the Minister of the Interior, who, after checking that they are in order, shall arrange for the publication, in the Journal Officiel, of the acknowledgement of receipt of the application, mentioning specifically the name and address of the association. This publication shall be made within two months following the deposit of the documents, failing which the Minister of the Interior shall refer the matter to the administrative division of the Court of Algiers, which shall decide the case within the month following referral. Applications for the suspension and/or dissolution of an association shall also be examined by the same division. The Court's decision shall be appealable before the Supreme Court.

Arts. 20 to 29. The acknowledgement of receipt published in the Journal Official confers legal status and capacity upon the association, which may acquire, possess and administer any assets necessary for its activity, receive gifts, legacies and membership dues, and produce one or more publications (arts. 20 to 24). The association may benefit from State aid. Gifts and legacies may be received only from identified individuals and may not represent more than 20 per cent of the income accruing from members' dues. The association may also derive income from its activities and from non-commercial investments (arts. 25 to 29). State aid shall be allocated in proportion to the number of deputies representing the political group concerned (art. 29).

184. The right to form and join trade unions is guaranteed by the Constitution. The arrangements for the exercise of trade union rights are set forth in Act No. 90/14 of 2 June 1990. Algeria is a party to the ILO Convention of 1948. The above-mentioned Act sets forth the arrangements for exercising trade union and trade association rights applicable to all wage-earners and employers. The main provisions of the Act are as follows:

Art. 2. Wage-earners and employers in the same occupations, branches or sectors of activity have the right to form trade unions and trade associations for the purpose of defending their material and moral interests.

Art. 3. For this purpose wage-earners and employers have the right to found trade unions and trade associations or to join, freely and voluntarily, existing trade unions and trade associations on the sole condition that they comply with current legislation and with the statutes of the organizations concerned.

Arts. 7 to 10. A trade union or trade association shall be constituted following a constituent general meeting attended by its founder members (art. 7) and shall be declared duly constituted after a notice of constitution has been filed with the wali (prefect) or the Minister of Labour, after a certificate of registration has been issued, and after the necessary formalities concerning publicity, have been completed (arts. 8 to 10). The organization shall be endowed with legal status and capacity, with the attributes attaching thereto. It may publish and circulate bulletins and other information papers.

Arts. 27 to 33. Suspension and dissolution (other than voluntary) may be pronounced by judicial means only, on the application of the public authority or any other interested party.

Trade union organizations shall be entitled to join international trade union organizations, both continental and regional, that pursue the same or similar aims.

Arts. 46 to 57. The Act also provides for facilities and protective measures for trade union delegates and members (granting of time during working hours for performing their duties; facilities for holding meetings; protection of workers against any discrimination on grounds of their trade union activities; prohibition of threats or pressure; prohibition of dismissal, transfer or disciplinary sanctions against trade union delegates, etc.).

Article 23: Family rights

185. "The family shall enjoy the protection of the State and society" (Constitution, art. 55). Article 2 of the Family Code (Act No. 84-11 of 9 June 1984 establishing the Family Code) defines the family as the basic unit of society: it is composed of persons united by the bonds of marriage and of kinship." Article 3 of the Code, by delimiting the basis of its mode of life, gives the family an active role in society: "The family's mode of life shall be based on union, solidarity, understanding, proper education and morals and the elimination of social evils".

186. The right to marry and to raise a family is guaranteed to men and women of marriageable age. The Family Code stipulates in article 4 that, "Marriage is a contract concluded between a man and a woman in legal form. Among its purposes is to found a family based on affection, kindness and mutual help, to provide moral protection for the spouses and to preserve family ties". To protect girls against marriage before puberty, the Code stipulates in article 7, paragraph 1, that marriageable age is considered to be 21 years for men and 18 years for women. Paragraph 2 of the article stipulates that a judge may, however, grant an exemption from the age requirement on grounds of interest or in case of need.

The free and full consent of the future spouses is one of the constituent elements of marriage. The Family Code stipulates that a marriage shall be declared null and void if one of its constituent elements is invalidated (art. 32). Article 9 stipulates that marriage is contracted through the consent of the future spouses, the presence of the matrimonial guardian and of two witnesses, as well as the award of a dowry. In addition, article 10 reads:

> "Consent shall derive from the request of one of the two parties and the explicit acceptance of the other signifying legal marriage. The request and consent of disabled persons shall be valid when expressed in any written or gestural form signifying marriage in language or custom".

The marraige ceremony is concluded before a notary or legally empowered official, subject to the provisions of article 9 of this Act (art. 18). The provisions of the Civil Status Code are applicable to the procedure for registering the act of marriage. In order to protect Algerian women the

entering of the marriage in the civil registry is obligatory. To this end, article 72 of the Civil Status Code stipulates: "When the marriage takes place before the registrar, he shall immediately record it in his register. He shall then provide the couple with a family record book certifying that the marriage has taken place ...".

Also in the woman's interest, article 119 of the Code provides that, "in the event of divorce, a second family record book may be provided for the spouse not in possession of the first book, at his or her request". The second book contains copies of all the certificates and information contained in the other book.

187. The equality of the rights and responsibilities of the spouses as regards the marriage, during the marriage and at its dissolution is ensured by the provisions of the Family Code. Algerian women are entitled, on the same basis as men, to choose their spouse and to enter into marriage only with their free and full consent, an essential condition for the marriage to be valid (Family Code, art. 9). The consent must be explicit and unequivocal and cannot be given for a future time or conditionally upon the occurrence or non-occurrence of a future or uncertain event. It must be expressed publicly and in person (art. 10). The Civil Code also states in article 46 that "No one may renounce his personal freedom." The Family Code defines, in chapter 4, "the rights and obligations of the spouses"; in particular, it stipulates that the obligations of the spouses are the following:

"(a) To protect marital ties and the duties of life together;

(b) To contribute jointly to the protection of the interests of the family and the children and to the children's proper upbringing;

(c) To protect the ties of kinship and good relations with parents and close relatives" (art. 36).

A husband is obliged to:

"(a) Support his wife to the best of his ability, except where it has been established that she has left the marital home;

(b) Act with perfect fairness towards his wives if he has more than one wife" (art. 37).

The Code grants women "the right to dispose of their goods with complete freedom" (art. 38). Like the husband, a wife may request a divorce before the court (Family Code, art. 53). The Code provides in particular for divorce by mutual consent. The wife automatically receives custody of minor children (Family Code, art. 64) unless the higher interests of the child require that she be deprived of this right.

Article 24: The child

Article 24, paragraph 1

188. Paragraph 1 of this article stipulates that every child shall have, without any discrimination, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State. The protection of children is dealt with first of all by a number of provisions of the Constitution, which guarantees the protection of citizens in general. Thus, article 23 provides that the State is responsible for the security of every citizen, whose protection abroad it must ensure. Similarly, article 33 stipulates that the State guarantees the inviolability of the human person and that any form of physical or moral violence is prohibited. This provision is complemented by article 34, according to which offences committed against rights and freedoms and physical or moral attacks on the integrity of the human being shall be punishable by law.

189. Children are mentioned explicitly in the Constitution in article 60, which stipulates that all the freedoms of every individual shall be exercised with respect for the rights guaranteed to others by the Constitution, especially with respect for the right to honour, privacy and protection of the family, young people and children. Protection of the family, the basic unit for the natural development of the child, is also mentioned in article 55 of the Constitution, which stipulates that "The family shall enjoy the protection of the State and society." Article 62 states, "The law sanctions the duty of the parents in the education and protection of their children." In addition, the child's right to education and instruction is laid down in article 50, which guarantees education and lays down the principle of free education. Also in accordance with article 50, basic education is compulsory, and the State is required, in organizing the system of education to ensure equal access to education and vocational training. In health matters, the Constitution provides, in article 51, that "All citizens are entitled to protection of their health. The State shall provide for the prevention and control of epidemic and endemic diseases." In social matters, the living conditions of citizens who cannot yet, can no longer or will never be able to work are guaranteed under article 56, which is implicitly aimed in the first place at children.

190. In matters of health, upbringing, instruction, labour and social welfare, several laws have been enacted with the aim of implementing and exercising the rights laid down in the Constitution. Besides the Protection of Children and Young Persons Act, which reaffirms the rights of the child enshrined in the Constitution and organizes the exercise of those rights, the protection of children is also dealt with in other laws, such as the Health Protection and Promotion Act (No. 85-05 of 16 February 1985), the Labour Act, which sets the minimum working age at 17 and Ordinance No. 68-82 of 16 April 1968 establishing national service, which sets the call-up age at 19. Among the various texts organizing education, the Basic Education Act stipulates that education is free and compulsory for the 6 to 15 age group. Vocational training enables children over 15 years of age whose school performance does not permit them to go on to secondary education to have a minimum of two years' free training to teach them a skill.

191. The Information Act (No. 90-07 of 3 April 1990) contains a series of provisions providing for the protection of children. Under the Act, children may not receive information that endangers their physical or moral integrity, offenders being liable to a fine and imprisonment. Article 24 of the Act stipulates that the editor of a children's publication must have the assistance of an advisory educational body. Article 26 provides that no publication may contain material contrary to human rights or apt to foster violence and delinquency. Article 27 enables any institution concerned with human rights and the protection of children to initiate criminal indemnity proceedings. Article 37 stipulates that a journalist cannot invoke professional secrecy before the judicial authority when the information in question relates to children or young persons, out of concern for the protection of the child. Finally, article 91 provides for imprisonment and a fine for anyone who, with intent to do harm, publishes or disseminates, by any means whatsoever, any text or illustration concerning the identity or personality of minor children.

192. The Penal Code, which attaches great importance to the protection of children, establishes severe penalties for offences committed against children and sets criminal responsibility at 18 years. Severe penalties are laid down in article 320 against anyone who forces or tries to force one or both parents to sign a document agreeing to give up a child about to be born, and against any person who is in possession of, uses or attempts to use such a document. The penalties for giving up a child for purposes of gain are equally severe for the principals and for any other person taking part in the commission of the offence, by acting or attempting to act as intermediary in order to obtain the child. Article 342, which protects children against vice and prostitution, stipulates that anyone who incites, promotes or facilitates vice or corruption involving persons under 19 years of age shall be liable to 5 to 10 years' imprisonment and a fine of 500 to 25,000 dinars. Article 344 increases the penalties laid down in article 343 when the offence of aiding, abetting or protecting the prostitution of others is committed with respect to persons under 19 years of age. The Penal Code is even more severe when minors are involved, since it establishes the same penalties for attempts to commit these offences as it does for the actual offences.

193. The Family Code (Act No. 84-11 of 9 June 1984) deals with the protection of children. The various provisions concerning custody, the duty to provide for children's needs, legal representation, guardianship, the legal compendium (the Kafala) and inheritance are aimed at protecting and safeguarding children's interests. It should also be mentioned that young offenders enjoy special procedures and specific measures aimed at rehabilitation and social reintegration (see comments on arts. 10 and 14 above).

Article 24, paragraph 2

194. Article 24, paragraph 2, stipulates that every child shall be registered immediately after birth and shall have a name. Regarding registration after birth, Ordinance No. 70-20 of 19 February 1970 relating to civil status stipulates, in article 61, that "Births shall be declared within five days to the registrar in the place of birth, offenders being subject to the penalties laid down in article 442, paragraph 3, of the Penal Code." Article 60 lists the persons required to make this declaration and specifies that the birth

certificate shall be drawn up immediatley. Foundlings must also be declared immediately. Thus article 66 obliges anyone who has found a newborn child so to declare to the registrar in the place in which the child was found.

195. As for naming the child, article 63 states that, in addition to the date, time and place of birth and sex of the child, the birth certificate must state the child's given names. The child automatically takes his father's patronymic when the father is known. If no father or mother is in evidence, the person declaring the child shall choose its given names (art. 64). For foundlings or newborn children whose parents are not known, the registrar himself shall give the child his or her given names, and the last given name shall serve as patronymic (art. 64).

Article 24, paragraph 3

196. Paragraph 3 stipulates that all children have the right to acquire a nationality. Article 29 of the Constitution states that Algerian nationality is defined by law. The conditions for acquiring, keeping, losing and deprivation of nationality are defined by law. The conditions are defined by the Nationality Code (Ordinance No. 70-86 of 15 December 1970), which states in article 1 that, in addition to the law, international treaties and agreements that have been ratified and published shall set the requirements for enjoyment of Algerian nationality. Under the Constitution, such agreements take precedence over internal laws.

197. With regard to children in particular, article 6 of the Nationality Code stipulates:

> "The following are of Algerian nationality by filiation:
>
> (1) A child born of an Algerian father;
>
> (2) A child born of an Algerian mother and an unknown father;
>
> (3) A child born of an Algerian mother and a stateless father."

Article 7 stipulates:

> "The following are of Algerian nationality by virtue of having been born in Algeria:
>
> (1) A child born in Algeria of unknown parents; a newborn child found in Algeria is presumed to have been born in Algeria until evidence is found to the contrary;
>
> (2) A child born in Algeria of an Algerian mother and an alien father who was himself born in Algeria, unless the child rejects Algerian nationality within the year preceding his coming of age."

And article 17 stipulates that the minor children of persons who acquire Algerian nationality become Algerian at the same time as their parents. The unmarried minor children of an Algerian who has resettled in Algeria, when they actually reside with that person, automatically acquire or reacquire

Algerian nationality. Finally, under the naturalization process the minor children of a naturalized foreigner may acquire Algerian nationality. However, the children have the option of renouncing Algerian nationality between the ages of 18 and 21.

Article 25: Right to take part in the conduct of public affairs, to vote and to be elected; right to access to public service in one's country

198. Article 6 of the Constitution affirms: "The people are the source of all power. National sovereignty belongs to the people." Article 7 states: "Constituent power belongs to the people. The people exercise their sovereignty through the institutions which they establish. The people exercise sovereignty by means of referendums and through their elected representatives. The President of the Republic may have direct recourse to the expression of the will of the people." Article 10 says: "The people shall choose their representatives freely. The representation of the people has no limits other than those set by the Constitution and electoral law." Article 11 adds: "The State derives its legitimacy and its raison d'être from the will of the people." Article 14 recognizes that: "The State is founded on the principles of democratic organization and social justice. The elected assembly constitutes the framework within which the will of the people is expressed and control of the actions of the public authorities is exercised."

199. The right to take part in the conduct of public affairs is guaranteed by the multi-party system and the organization of the powers established by the Constitution. With regard to the multi-party system, see above, part I of the report and the comments on article 22, in particular, the paragraphs relating to political associations. The organization of powers is subject to the principle of the separation of the executive, legislative and judicial powers. The judiciary is independent (see above, part I of the report).

200. With regard to the executive branch, the President of the Republic and Head of State is elected by universal, direct and secret suffrage. He is elected by an absolute majority of the votes cast. The other procedures relating to the presidential election are established by law (see below, decision of the Constitutional Council, which declared unconstitutional a provision of the Electoral Code establishing an additional condition for eligibility introducing discrimination which ran counter to the Constitution and the 1966 Covenants ratified by Algeria). The President of the Republic is elected for a term of five years and may be re-elected. He appoints the Head of Government. The latter selects the members of his Government and presents them to the President of the Republic for appointment. The Head of Government submits his programme for approval by the National People's Assembly, which initiates a general debate for that purpose. In the event of his programme not being approved, the Head of Government submits the resignation of his Government to the President of the Republic.

201. Legislative power is exercised by a single assembly (the National People's Assembly), which has sovereign power to draft and enact legislation and exercise control over the actions of the Government. Members of the Assembly are elected by universal, direct and secret suffrage for a period of five years. The procedures relating to the election of deputies are established by law (see below).

202. The Constitution provides that every citizen fulfilling the legal conditions has the right to vote and to be elected. The conditions are established by Act No. 89-13 of 7 August 1989 relating to the Electoral Code. This Act amends the previous electoral law in order to take account of the multi-party system. It should be mentioned that the new Act adopted by the Assembly has been the subject of referral, by the President of the Republic, to the Constitutional Council, which gave a decision on the constitutionality of articles 61, 62, 82, 84 to 86, 91, 108, 110 and 111 (decision No. 1 DLCC/89 of 20 August 1989 relating to the Electoral Code). The Council declared articles 86, 91, 108, 110 and 111 to be unconstitutional. It appended to its decision new texts for articles 86, 91, 108 and 110. The provisions of article 111 ceased to have effect from the date of the Council's decision, in conformity with article 159 of the Constitution.

203. The Electoral Code, as reformulated by the Constitutional Council, strengthens the right recognized by the Constitution to vote and to be elected, while establishing the general regulations governing elections. It also defines the conditions for conducting them, infractions of the Code and penalties. The general provisions of the Code are the following:

(a) Voting is universal and direct and by secret ballot (art. 2).

(b) All Algerian men and women aged 18 or over on the date of the poll who are in possession of their civil and political rights and who do not suffer from any legal disability under the legislation in force are eligible to vote (art. 3). The following may not be included in the electoral register: persons sentenced for a serious or ordinary offence to a term of imprisonment without possibility of remission, together with suspension of the right to vote, as provided for under articles 8 and 14 of the Penal Code; persons whose conduct during the National Liberation Revolution was contrary to the interests of the country; undischarged bankrupts; prisoners; and persons subject to legal disability (art. 5).

(c) The Act lays down the procedures for drawing up and revising the electoral registers (arts. 6 to 22). Such registers are drawn up and revised in each commune by a government commission which includes a public officer with judicial authority. All electors may examine the register of concern to them and enter claims with regard to entries or deletions. The chairman of the Communal Assembly (the mayor) is required to issue an elector's card to every citizen entered on the electoral register.

(d) Voting is personal and by secret ballot (art. 28). The Act sets forth voting procedures in articles 23 to 60. Every polling station is equipped with one or more polling booths. The vote of every elector is certified by his signature.

(e) The votes are counted in public, immediately after the polls are closed. The operation is conducted by tellers. The results are recorded in a report, to which are attached ballot papers whose validity the tellers consider doubtful or which have been challenged by electors. These papers are kept until the period allowed for appeal has expired.

204. The Electoral Code establishes regulations concerning the election of local bodies (communes and wilaya) in articles 61 to 83. Such bodies are elected for five years on one ballot by proportional representation on party lists, with a premium to the majority. All electors aged 25 years or over at the date of the poll are eligible to stand as candidates. The names of those standing are declared on a list fulfilling the legal regulations, which is lodged at the wilaya level. The list must be authorized by one or more political associations; alternatively, the candidate may support his candidature by the signatures of at least 10 per cent of the electorate in his constituency.

205. The Code also provides for the election of members of the National Assembly, which is elected on one ballot by proportional representation on party lists, with a premium to the majority. Candidates must be at least 30 years of age and of Algerian nationality (art. 86). The Constitutional Council considered that the conditions initially established by the Act (Algerian national by birth of the candidate and of his/her spouse) were unconstitutional and contrary to the international human rights conventions ratified by Algeria, including the 1966 Covenants and the African Charter on Human Rights and Peoples' Rights. The Constitutional Council considered that "it is for the electors to form a judgement on the fitness of each candidate to assume public office" and declared that the requirement as to the nationality at birth of candidates in legislative elections was not in conformity with the Constitution. It further considered that the requirement of Algerian nationality by birth for the spouse was not in conformity with the Constitution in that it was a requirement both extrinsic to the candidate and of a discriminatory nature.

206. The Code contains the provisions relating to the election of the President of the Republic and to referendums (arts. 104 to 122). Rules for presidential elections comprise voting for one person on two ballots, to achieve an absolute majority of the votes cast. Candidates must lodge a request to stand with the Constitutional Council. This organ has decided that such a request should not be accompanied by a certificate showing the Algerian nationality by birth of the spouse, as required by article 108, paragraph 3, which has been declared unconstitutional. The Council considered that this requirement "cannot be regarded as comprising a procedure of the presidential election and constitutes in fact a supplementary condition of eligibility; furthermore, it introduces discrimination contrary to the provisions of the Constitution and to the 1966 Human Rights Covenants" ratified by Algeria. The Constitutional Council further declared unconstitutional the provision of article 110 which makes it obligatory for the candidate to be expressly approved or put forward by one or more political associations. The Council considered that "the obligation for a candidate for the office of President of the Republic to produce an authorization, as defined in article 110, in practice eliminates candidates from outside political associations; that constitutes an obstacle to exercise of a right enshrined in article 47 of the Constitution".

207. The Constitutional Council likewise handed down a decision on articles 111 and 91 of the Electoral Code. Article 111 exempted the President of the Republic in office from the conditions set out in article 110. Article 91, paragraph 3, dispensed an outoing deputy not included on a party list from the

obligation of supporting his candidature with the signatures of 10 per cent of the electorate in his constituency or 500 electors. The Council considered that "the fundamental principle of the sovereignty of the people and the normal functioning of the democratic system require that those holding an electoral mandate must without exception surrender it on its expiry to the electorate; it is for the latter to judge the way in which it has been performed. Under the terms of article 47, which recognizes the right of all citizens to be elected, and of article 28 of the Constitution, which establishes the equality of all before the law, candidates in all elections must equally fulfil the same obligations and enjoy the same rights; such exemptions may well be regarded as a breach of the principle of equality of treatment of candidates". Consequently, the Council declared article 111 and article 91, paragraph 3, of the Electoral Code to be at variance with the Constitution.

208. The Code also establishes the procedures for organizing the electoral campaign (arts. 123 to 132) and contains provisions relating to financial matters. Electoral campaigns are funded by means of contributions from the parties, the income of the candidate and possible assistance from the State provided on an equitable basis.

209. Finally, the Code sets out the penal provisions applicable in cases of breaches of the Act (falsification of electoral registers; fraudulent declarations; altering of ballot papers; carrying weapons in the polling station; improper removal of ballot papers; disrupting polling operations; insulting behaviour and violence towards polling station officials; improper removal of the ballot box, punishable by 5 to 10 years' imprisonment and 10 to 20 years' if accompanied by violence; intimidation of electors, etc.).

210. Article 48 of the Constitution stipulates that "Equal access to office and employment under the State is guaranteed to all citizens, subject to no conditions other than those fixed by law". Access to State service is not based on any discrimination. It is open to all citizens who meet the criteria of proficiency, integrity and commitment (Act No. 78-12 of 5 August 1978 relating to the general statute of workers). Decree No. 85-59 of 23 March 1985, relating to the standard qualifications for workers in public institutions and offices, regulates conditions of access and promotion, which ensure equality of opportunity to all Algerian citizens. Article 31 relating to recruitment provides:

"No one may be recruited for a public institution or office:

1. Unless he is of Algerian nationality;

2. Unless he is in possession of his political rights and is of good character;

3. Unless he can provide proof of possessing the qualifications required by the post;

4. Unless he satisfies the conditions in respect of age and physical fitness required for carrying out the duties in question;

5. Unless he can produce proof of having complied with national service requirements.

Specific regulations shall, as necessary, establish conditions regarding seniority in the acquisition of Algerian nationality for access to certain branches of the civil service."

Article 26: Equality before the law and right without discrimination to the protection of the law

211. The principle that all persons are equal before the law and are entitled without discrimination to the equal protection of the law is clearly set out in the Constitution, article 28 of which states: "Citizens are equal before the law, and there shall be no discrimination on grounds of birth, race, sex, opinion or any other personal or social condition or circumstance." Various other constitutional provisions, in particular articles 30 to 32, 34 to 37, 39, 40, 47, 48, 50 to 53, 57, 60, 61, 65, 129 to 131, 133, 138 and 141 contribute to the same objective of ensuring and guaranteeing the rights of the individual, in accordance with the basic principle of non-discrimination and the equality of all before the law.

212. Since its independence, Algeria has abrogated all discriminatory legislative measures and regulations and developed legislation intended to look after the interests, aspirations and values of the Algerian people which, throughout its long history, has given proof of its tolerance, its openness to other cultures and civilizations, and its complete abhorrence of any form of racism, injustice, domination and discrimination. Algeria is a party to the International Convention on the Elimination of All Forms of Racial Discrimination and has made the declaration under article 14 whereby it recognizes the competence of CERD to receive and consider complaints of violations of the rights enunciated in the Convention.

213. National legislation, in which are incorporated the numerous international conventions to which Algeria is a party, is based on this fundamental principle of non-discrimination. Furthermore, all laws contain a series of measures aimed at translating this principle into practical reality. The comments on the preceding articles of the Covenant given an insight into national legislation on the subject. It should be added that sectoral legislation on health, labour, education, etc. also contributes to the implementation of the basic rights of the individual, without any discrimination. Thus, by way of illustration, it may be mentioned that Act No. 78/12 of 5 April 1978 relating to the general statutes of workers stipulates that "The rights of the worker are guaranteed by law. Workers are equal in rights and duties. They shall receive the same remuneration and benefits for the same work based on equality of qualifications and productivity". The Act adds that "Disabled persons who cannot be employed under normal working conditions shall have suitable employment or, if need be, sheltered workshops and the right to specialized training." In addition to the right to education being guaranteed, education is compulsory, free and

accessible to everyone under conditions of equality. Act No. 76/35 of 16 April 1976 relating to the organization of education and training stresses that the Algerian educational system must:

> "(a) Inculcate in young people the principles of justice and equality among citizens and peoples, and inspire them to combat any form of discrimination;
>
> "(b) Provide an education which promotes understanding and cooperation among peoples for universal peace and agreement among nations;
>
> "(c) Develop education in accordance with human rights and fundamental freedoms."

214. Even the laws relating to freedom of association, opinion, expression and assembly contain provisions whereby all practices liable to harm human rights are prohibited (see above). It should be added that the law relating to the exercise of trade union rights "prohibits trade union organizations from introducing into their statutes or practising any discrimination between members liable to infringe their fundamental freedoms" (art. 22).

215. It should also be stated that the Constitutional Council sees to it that the principle of non-discrimination enshrined in the Constitution is scrupulously respected. In addition to decision No. 1 (mentioned in comment on art. 25), the Constitutional Council, by its decision No. 2 DLCC/89 of 30 August 1989, declared article 8 of the Status of Deputy Act (No. 14 of 8 August 1989) to be at variance with article 28 of the Constitution. Article 8 of that Act dealt with the compatibility of the duties of a teacher in higher education and a doctor in the public sector with the mandate of deputy. The Constitutional Council considered that "the law, which is the expression of the general will, cannot create inequitable situations between citizens; the lifting of incompatibility for certain holders of public office, as envisaged in article 8, creates a discriminatory situation with respect to the holders of identical offices coming under other legal dispensations".

Article 27: Rights of ethnic, religious or linguistic minorities

216. The Algerian people are characterized by homogeneity. Islam is one of the components in the national character, which was forged in a cultural crucible with many inflows. All attempts at colonialism, at denying the existence of the Algerian nation, ran up against the resistance of the Algerian people. As early as under Massinissa, the founder of the first Numidian State, and of Jugurtha, who initiated resistance to Roman imperialism, the national character began to be forged and the idea of an Algerian nation strengthened. Both were to assert themselves through the historical development of Algeria over more than 2,000 years. From the seventh century onwards, Islam was a decisive factor. The States which succeeded one another on Algerian soil from the Middle Ages, from the Rostoumides to Emir Abdelkader, from the Zirides-Hamadites dynasty to that of the Abdelwadites-Zyanides, set their seal on the historic heritage of the central Maghreb, in the form of its Muslim values and its marked distinctiveness as a Nation, which thus continued and enriched the traditions

from the distant past. The different periods of Algerian history constituted a melting-pot of ethnic mixtures, enriching contributions to the creativity of the national genius, which resulted in the distinctive Algerian character.

217. Confronted with repeated attacks from Europe from the sixteenth century onwards, and in spite of a policy of foreign settlement conducted after the French colonial invasion of 1830, the Algerian character remained unchanged. The survival of Algeria was the result of ceaseless struggles and long resistance to oppression, which culminated in the reconquest of national sovereignty and national identity. The divisive efforts of the colonizer had the opposite effect of strengthening the unity of the Algerian people, which today, its liberty and identity regained, is pursuing the work of economic, social and cultural development in a modern State where the law is supreme.

218. The opening article of the Constitution states: "Algeria is a Democratic People's Republic; it is one and indivisible." Articles 2 and 3 stipulate that Islam is the religion of the State and that Arabic is the national and official language. Article 28 provides that Algerian citizens are equal before the law and that there shall be no discrimination on grounds of birth, race, sex, opinion or any other personal or social condition or circumstance. Article 30 states: "The institutions shall seek to ensure the equality of rights and duties of all male and female citizens by eliminating the obstacles which impede the full development of the human personality and prevent the effective participation of all in political economic, social and cultural life." The Constitution also establishes freedom of conscience, opinion, intellectual and scientific creativity, expression, association and assembly, as well as the other fundamental freedoms and human rights.

219. The affirmation in the Constitution that Islam is the religion of the State and Arabic the national and official language is the outcome of attempts to depersonalize and divide the Algerian people, who by referendum made a point of reaffirming and inserting in the Constitution the basic features of their character, thus stressing the homogeneity of their human and cultural make-up. Accordingly, in Algeria, censuses are never conducted on the basis of ethnic, religious or linguistic criteria. However, that affirmation should not be interpreted as a narrow, restrictive view of the Algerian character, which is also rich in its age-old traditions.

220. In addition to Arab and Islamic culture, Algeria also recognizes its Berber culture and its kinship with Africa and the Mediterranean. Berber is widely spoken in various regions of Algeria and used as a means of expression in many cultural and artistic events both within and outside the country and on the second channel of the national radio, which broadcasts in Berber, from 6 a.m. till midnight, artistic, educational and cultural programmes and news bulletins. Berber culture and language are increasingly fostered as constituent elements of the national cultural heritage. For this reason, a Department of Berber Culture and Language has been set up within Tizi-Ouzou University. In addition to teaching the language, the Department has undertaken a series of studies and research and organized various symposia on Berber culture. Recently, it offered a third course-level to students wishing to specialize in this field.

221. The various elements of the national cultural heritage are fostered in order to encourage the development of pluralistic cultural expression. This has led to the abolition of the Ministry of Culture so as to relieve culture of the weight of bureaucracy and ensure that it is taken in hand by its real promoters, including the very many cultural associations set up as part of the development of group movements since the adoption of the 1989 Constitution, as well as the various cultural institutions already existing at the national, regional and local levels. At the national level, in addition to the specialized cultural institutions, the former Ministry of Culture has been replaced by a National Council for Culture, whose mission is defined in Executive Decree No. 90-250 of 18 August 1990. In conjunction with the various cultural institutions, the Council has the task of promoting and developing culture by granting material and financial support to encourage the activities of those institutions and of cultural associations.

222. Freedom of religion and worship is covered by several articles of the Constitution. In addition to articles 28 and 30, article 35 states that freedom of conscience and opinion is inviolable. Article 37 provides that privacy and honour are inviolable and protected by law. Article 39 guarantees the freedoms of expression, association and assembly. These provisions translate into law the fact that tolerance has always prevailed in Algerian society, which has permitted the cohabitation of the three great monotheistic religions. The Christian and Jewish communities, made up primarily of Europeans, have continued since independence to enjoy freedom of religion. Their respective places of worship are protected by the Ministry for Religious Affairs (see above, comments on art. 18).

CONCLUSION

223. The present report provides a summary of the juridical framework and its main provisions relating to the protection and promotion of the rights set forth in the International Covenant on Civil and Political Rights, in the overall context of the reforms being carried out in Algeria. Those aspects of the reforms relating to the field covered by the Covenant are briefly surveyed in the first part of this report. The economic, social and cultural reforms which constitute an integral part of the reform process being undertaken by Algeria will be set out in the initial report to be submitted pursuant to the relevant provisions of the International Covenant on Economic, Social and Cultural Rights, which Algeria has likewise ratified. It should also be mentioned that the members of the Human Rights Committee will be able to find further information in the comments on article 7 in the initial report submitted by Algeria in February 1991 to the Committee against Torture.

224. It should further be noted that Algeria, in addition to revising its domestic legislation, has put in hand a series of practical measures aimed at giving effect to the basic principles enshrined in the Constitution and the international undertakings to which Algeria has subscribed. Encouragement of the development of associations forms part of that aim. Algeria is also aware of the important role played by information and training in the field of human rights. In Algeria, everyone is taught, from their earliest age, the principle of the equality of all human beings, tolerance, respect for others, abhorrence of racial prejudice, love and understanding among peoples. To this end courses of civic, moral and religious education are given in all educational establishments.

225. The obligation to respect human rights is one of the constitutional principles which, as such, underlie the curricula for general education and specialized training. In the universities of Algiers and Oran, particularly in the faculties of law and jurisprudence, courses are given on human rights, the rights of refugees and humanitarian law, at degree and postgraduate levels. A number of research topics have been devoted to human rights and chosen by students as subjects for Master's theses. In addition, a number of schools and institutes organize specialized training courses for judges, central and local government officials, and personnel in the police, gendarmerie, prison administration, security services and armed forces. The content and scope of these principles are also reflected in the basic training programmes for the other occupations which may be relevant to the exercise of the basic rights of the individual - or doctors and journalists, for example.

226. A number of symposia and workshops were organized during 1990. For example, a training course was organized, with the Office of the United Nations High Commissioner for Refugees, for the officials of various ministries on the subject of refugees (applicable rules for determining the status of refugees and respect for their rights). The Ministry of Justice organized several seminars. One, devoted to litigation and administrative law, was for judges in the administrative divisions, who studied ways to implement the reforms introduced by the Code of Civil Procedure in that field, with a view to streamlining recourse procedures relating to administrative litigation. Another seminar was for presiding judges, procurators and examining magistrates of courts in the Central Region, who met experts and specialists in immunology, ballistics, graphology, food chemistry, forensic medicine and criminal science, with the main purpose of studying the applications of criminal science and forensic medicine in judicial proceedings in order to enhance performance and standards in the administration of justice. Further regional and national seminars in the programme of action of the Ministry of Justice are aimed at improving judicial action by enabling a judge to learn about developments in the various sciences involved in the application of the law. Seminars are also envisaged, in the context of continuing training, inter alia, on the subjects of custody, judicial review, information and its judicial application.

227. The national print, audiovisual and sound media regularly and widely reflect, from many standpoints, the numerous discussions, seminars, conferences and exhibitions held in Algeria on the subject of human rights. It should be noted that the forty-second anniversary of the Universal Declaration of Human Rights provided an opportunity for several political parties and associations to organize lectures, discussions and seminars on human rights. For example, the Algerian Amnesty International Association gave a lecture on "Amnesty and human rights". The National Committee against Torture organized a number of lectures and discussions on the subject of torture, including a round table by radio. The Algerian League for Human Rights organized a press conference in Algiers to which the national and international press were invited, as well as lectures, discussions and exhibitions on human rights in various towns. Several other cultural associations organized discussions on the subject of economic, social and cultural rights.

228. The Algerian League for Human Rights organized, in collaboration with the Arab Institute for Human Rights and the National Algerian Lawyers' Organization, a Maghrebi training seminar on human rights at Sidi-Fredj (Algiers) from 8 to 11 December; it was attended by representatives of many other Maghrebi human rights associations. On the occasion of that seminar Mr. Benflis, the Algerian Minister of Justice, delivered the following message:

> "Mankind, deeply devoted to freedom, justice, progress and peace, has made undeniable strides in the field of human rights. And yet, 42 years after the proclamation of the Universal Declaration of Human Rights, it is still a burning issue in our country and everywhere in the world.
>
> The vastness of the sphere of action for plural, individual and collective freedoms and for the fundamental political, economic, social and cultural rights of citizens is to some extent the reason for this.
>
> The constant progress, and at times the intensive exercise, of human rights may perhaps reflect a certain concern to convert these precarious rights into inalienable rights, given the frequently justified fear for their fragile nature.
>
> By means of measures at the national and international levels, and through the action of numerous institutions, and international, continental, regional and non-governmental organizations and associations, human rights and freedoms are becoming increasingly accepted in our world, which is resolved to drive back the forces of tyranny and oppression until all islands of hope have been invested with the rule of law.
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> In our spirit of fraternity, human rights apply to all human beings, men, women and children, who are equal in dignity and rights. To exercise these rights requires not only the enjoyment of the various types of freedom, but also the complete eradication of the horrendous spectre of torture, all forms of servitude, persecution, arbitrary action or interference, and cruel, inhuman or degrading treatment.
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> Human rights constitute the major element in our country's political, economic, social and cultural development. The Constitution of 23 February 1989 expressly enshrined the arrival of the body of plural, individual and collective freedoms and fundamental rights of citizens, as well as the promotion of the rule of law, inter alia, through the establishment of an independent judiciary.
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> Protection of the person, his honour, property, privacy and freedom of conscience, opinion, creativity, expression, association, assembly, movement and information, the right to vote, the right to litigate, the right of defence, trade union rights, the right to strike and the rights to education, work, health protection, rest and recourse before competent courts against acts in violation of the fundamental rights and freedoms of citizens as recognized by the Constitution and the law are not only enshrined, but are implemented in the firm belief in the justice of causes involving the freedom, dignity and worth of the human personality.

This struggle to establish human rights is difficult, long and no doubt endless. It requires that enlightened minds should occupy all spheres of expression and action by swelling to the utmost the ranks of committed combatants in the cause of bringing human rights to the point from which there is no turning back. It calls upon all persons to take charge of their destiny in freedom and human grandeur. In this sensitive domain, the heritage of all mankind which entails active solidarity and involvement with all human rights causes throughout the world - in suffering Palestine, in Africa and everywhere else, no reservation, no monopoly should be allowed to dissipate the exercise of human rights, which must be the prerogative of the entire world without exception. The priceless achievements brought about by advances in human rights must be unswervingly upheld for the sake of the constant promotion of a free society."